WHAT'S THE MATTER WITH NEW YORK

NORMAN THOMAS
AND
PAUL BLANSHARD

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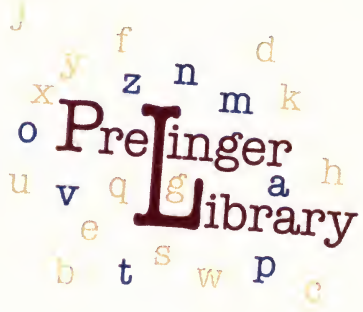

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WHAT'S THE MATTER WITH NEW YORK

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DESIGN FOR A MUNICIPAL FOUNTAIN

WHAT'S THE MATTER WITH NEW YORK

A NATIONAL PROBLEM

NORMAN THOMAS
AND
PAUL BLANSHARD

NEW YORK
THE MACMILLAN COMPANY
1932

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To

SEVEN FUTURE CITIZENS OF NEW YORK

W. T., M. T., F.T., R. T., E. T., P. B., JR., AND R. B.

in the hope that they will live to be proud
of their city

PREFACE

MORE years ago than he likes to remember one of the authors of this book—it doesn't matter which—returned for a brief visit to his native town with all the weight of a very recent college degree upon him plus the sophistication acquired from twelve whole months in the metropolis. To this youth a shrewd old judge imparted information that has stuck, although much else has been forgotten. "Boy," said he, "don't tell me that Tammany could teach us many tricks. Our small town politicians know them all. But the paving supply men do tell me our town has an honest council. When one of our Councilmen contracts to deliver his vote he stays bought even if some late comer offers to raise him."

The obvious moral of this tale is that we are not holding up New York City in this book as a sinner above all other American communities. Indeed, we suspect that the point of our story is that in essence it is typical. Admitting with proper humility that "New York isn't the United States," acknowledging that its sheer size alone gives it certain peculiar problems, accepting at its full value the good old American horror-not-unmixed with fascination at the very name of Tammany, we still affirm that there are dozens of cities, towns, and rural counties that do not need to go to school in the Wigwam in order to learn

how to make politics pay politicians—at what terrible cost to the community our chapters illustrate.

But we do not, in this book, indulge in any detailed comparisons, odious or otherwise. That is one of many things that do not lie in the field we have marked out for ourselves. We indulge ourselves in a last chapter on the City of the Future, but we do not go at length into the question of the future of cities in the light of our progress in communication, transportation, and the distribution of electrical energy. We summarize the findings of the Seabury investigation, but we are not its official recorders, nor do we confine ourselves to its revelations and recommendations. We discuss the place of structural changes in government in any program for a nobler city, but we do not seek to write a new charter for New York. We are Socialists, eager to make New York an example of effective municipal socialism, but we are not laying down a platform for a party. What we do is to try to give facts about the past and present of New York City government, and then to interpret those facts and to suggest what can be done about them. We cannot in every chapter remind the hoped-for reader what we beg him never to forget; namely, that behind the politics of New York lies the economics, the politics, the ethics of a sick acquisitive society, drawing inexorably near to the end of its epoch.

Yet, even in this day when not only cities but a whole social order groan and travail in pain, it seems to us well that we should understand the meaning and possibilities

for good or evil of the government which touches so intimately the lives of the seven million people of many nations and races, gathered from the North, the East, the South, and the West, who call New York home.

How critical we are and why of government in New York, of its political machines, of its privileged classes, and its unprivileged masses the book must speak for itself.

We criticize, not because we despair but because we hope. We who are not native New Yorkers would be less than honest and less than grateful if we did not acknowledge the spell New York has laid upon us, the sense of living vitality which she imparts, and the good comradeship which we have found within her borders. It is a city worth saving from the shame of economic exploitation and political corruption. It is a city, great masses of whose workers with hand and brain, for all their seeming apathy or cynicism or despair, deserve a government which will be theirs, rather than their exploiters. They will take a long step toward it when they begin to see the contrast between the shame that is our city's and the splendor that might be the crown of glory to all its sons and daughters.

In a sense this book is a coöperative effort with several of our associates. We wish especially to express our deep indebtedness to two of those associates, Henry J. Rosner and E. Michael White, whose research underlies many of the most important chapters and whose critical comments have been invaluable. Our thanks are due also to H. Eliot

Kaplan for facts concerning the city's civil service and to Beatrice Mayer for patient and cheerful work upon the manuscript and index.

Before we were halfway through the book it became evident that we could not record all of the important and exciting developments in New York's recent civic scandals without stretching the discussion to impossible lengths, and yet we were loath to omit any important events because we wanted to make this a reference book for writers and civic workers as well as a critical discussion for the general reader. We have made what seems to be a logical compromise by discussing the major scandals in detail and adding as Appendix I a "Calendar of Scandals during the Walker Administration" which lists without too great solemnity the major events in the reign of Jimmy the First —or will it be Jimmy the Last?

N. T.
P. B.

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WHAT'S THE MATTER WITH NEW YORK

1

CITY PROBLEMS AND INVESTIGATION CURES

WHEN James J. Walker resigned as mayor of New York on September 1, 1932, the event was important not only to the seven million people of the metropolis but to the seventy million people of America whose lives are now controlled by the governments of cities. New York presents in an exaggerated degree problems that are universal in a machine-age democracy. It is important in its own right because it contains in Wall Street the financial capital of America and because millions of Americans are more or less culturally dependent on its newspapers, magazines, and publishing houses. It is equally important as a large-scale model of the thing we call a city, a city with bosses, political machines, rackets, gang murders, franchises, aldermen, realtors and reformers.

How desperately necessary it is to control these things we call cities is worthy of some consideration before we turn to New York's troubled affairs. The notion that that government is best which governs least was born in the country in an age of simple agriculture and handicraft arts. It can have no meaning in a modern city. However bad our city government is, it is indispensable to masses of workers who do not grow their own food or make their

own cloth but live housed in tenements, are fed by complex processes under which the city is never far removed from hunger, who would die of thirst but for a city water system, and who are herded back and forth in city subways. Our health, certainly our protection from epidemic disease, depends far more on the city board of health than upon the best family doctor. The education of our children is in the main a city function. So is our protection from fire and theft. The courts of the people are city courts, with little chance of appeal to the august tribunals in Albany and Washington. And in these bitter years of depression hundreds of thousands of American workers have learned that if they are to escape from the starvation of unemployment it is primarily the city upon which they must depend. Few of us can do for ourselves what the city government does for us collectively.

New York has a peculiar need of a strong and efficient government because it is so artificial a creature of the machine age. Its economic as well as its political life depend upon collective control, and in many cases that control is national. It is an overhead city feeding upon the hinterland. The centripetal forces that hold it together are felt in San Diego, Key West, Seattle, and Bangor. Its political boundary lines are little more than signposts past which the automobiles whiz. A great part of its population pours out of the skyscrapers at night to sleep in neighboring states and completely ignore the civic problems of the metropolis. Incidentally, it can be said that so artificial a city may not have a stable future. What

the machine has created the machine may destroy. The necessity for concentration which created the great city in the first place is now being destroyed by the telephone, the telegraph, the radio, the motor bus, and the airplane. Prophets like Frank Lloyd Wright think that the city is doomed. Stuart Chase warns us that modern science has made the great city a place of danger in time of peace and war because of the peril of broken gas mains and aerial attacks.

Whatever the machine age may do to the city its importance in national life is bound to grow because of another factor. It has become the frontier of the struggle between organized capital and the forces of social change. In Russia under the leadership of a remarkable group of intellectuals, the city proletariat has not only overthrown the old order in the city but has carried to a bewildered and often reluctant countryside a coercive gospel of socialist salvation. So the city which to the shepherd and peasant has always been the symbol and home of a predatory culture appears in a new rôle as the pioneer of a system that challenges old acquisitive standards.

In America we have not come yet to anything resembling the revolutionary organization of the city proletariat of Europe, but it would be foolish to disregard the possibility. New York is worth studying not only as a sample of civic failure but as a possible cradle of economic revolt. As yet its working class is unbelievably docile, but the fourth successive winter of unemployment may not leave it so.

At present neither proletariat nor intelligentsia is much interested in city government. Forty per cent of the American voters do not bother to go to the polls at all. When Walker resigned as mayor of New York the one organization that defended him most warmly was the Central Trades and Labor Council of the American Federation of Labor through its president, Joseph P. Ryan! Among the intelligentsia it is smart to be cynical concerning all forms of democracy and especially local democracy. A man who discusses intelligently the color line in South Africa and the freedom of India will consider a street-car franchise in Brooklyn beneath his mental range, and he will be positively disgraced if any one asks him to run for alderman. His attitude toward city investigations is that they are amusing and worthless exhibitions of human ignorance.

Well, are investigations worthless? We believe they are not, and we think that it will be worth while to look back a moment at some of New York's great investigations.

George Washington Plunkitt, a famous old Tammany district leader who operated a bootblack stand in front of the New York County Court House about 1900, once said: "There's an honest graft, and I'm an example of how it works. I might sum up the whole thing by sayin': I seen my opportunities and I took 'em." [1]

Never did one slogan express better the history of New York political machines since the year 1789 when Tammany was founded. An old Tammany song quoted by

M. R. Werner in his *Tammany Hall* summed it up phonetically:

> Tammany, Tammany
> Swamp 'em, swamp 'em
> Get the wampum
> Taammanee! [2]

Of late years, particularly while Al Smith was running for president, an effort has been made to throw a cloak of gentility about the early activities of Tammany. An egregious paper-bound history of the society has been put out which omits or distorts everything that a history should tell. The truth is that Tammany always has been a center of corruption and it has never reformed. It has on occasion modified its methods in the face of public indignation but as soon as the public indignation has cooled down it has gone as far as the law would permit. (Strictly speaking, Tammany is confined to Manhattan, but we shall frequently use the word in its popular sense to describe the Democratic organizations in Greater New York.)

The founder of Tammany, an upholsterer named William Mooney, who had been charged with deserting the American army and joining the British during the Revolutionary War, spent nearly $4,000 of city money in addition to his salary on his family and himself in the year 1809, and was removed from office. Like Sheriff Tom Farley in 1932, his standing with Tammany was not affected by his removal for he was later chosen a Grand

Sachem of the society for several terms. From that day to this Tammany has fought every investigation by legislature or grand jury, and has welcomed back into its ranks the discharged convicts and the dismissed officers. Aaron Burr was the first real leader of Tammany, and did much to shape its permanent policies.

Looking back on the story of New York's great scandals one can understand why Lord Bryce once remarked that city government is the great failure of American democracy, and why H. G. Wells, when he visited Chicago many years ago, said: "I would as soon go to live in a pen in a stockyard as into American politics." Yet the story in retrospect is not one of despair. Waves of reform have been followed by waves of reaction, but each reform movement has wrought some permanent improvement in the life of the city. We may take, for example, the last five investigations or drives against New York corruption, the fight of *The Times* against Tweed in 1870, the fight of Dr. Charles H. Parkhurst and the Lexow Committee against police corruption in 1894, the exposure of Croker by the Mazet Committee in 1899, the Meyer investigation in Hylan's administration, and the Seabury investigation in Walker's. Only one of these investigations, the Meyer inquiry, failed to produce appreciable results in improving the city's life. Every one of them would have succeeded more completely except for the fact that the organized and bitter opposition of Tammany was supported by wealthy business interests.

The fight against William Marcy Tweed was led by

George Jones, editor of *The Times,* with the able assistance of *Harper's Weekly* and the famous cartoonist, Thomas Nast. Jones was bitterly attacked by the Tweed newspapers as an Englishman and the husband of an actress, and all of Harper's books were barred from the public schools. While he was stealing about a million dollars a month from the city, six of the wealthiest men in New York, headed by John Jacob Astor, gave Tweed a certificate of character for which it is alleged that their taxes were reduced.[8] Jay Gould advanced a million dollars as bail to free Tweed from jail, whereupon Tammany renominated and reëlected him to the State Senate.

But in spite of his wealthy friends Tweed died in Ludlow Street jail and his dapper boy-friend, Mayor A. Oakey Hall, the 1870 counterpart of Jimmy Walker, was thoroughly disgraced. It is true that only one man, Tweed himself, was convicted as a result of the great scandal, but the Tweed Ring was broken up, two of the Tweed Ring judges, Albert Cardozo and George Barnard, resigned or were removed, and reformers learned how to expose some of Tammany's favorite devices for theft. After Tweed's death some of the crudest forms of looting the public treasury were abandoned, and Tammany thereafter centered its attention on exploiting private citizens for city service and protection.

Such exploitation in the underworld reached its climax in the nineties during the great depression of Cleveland's second administration. (Perhaps there is a connection be-

tween civic conscience and financial failure.) Prostitution in those days was open and widespread in New York, especially on the lower East Side, and the Rev. Charles H. Parkhurst, pastor of the Madison Avenue Presbyterian Church, who was also president of the Society for the Prevention of Crime, discovered that an organized system of bribery existed under which the police collected millions in tribute for failure to enforce the law. Parkhurst began thundering from his pulpit in 1892, at a time when Croker was in temporary retirement in Ireland, and he kept thundering until the business men became disturbed and the Chamber of Commerce persuaded the legislature to appoint the Lexow investigating committee.

Parkhurst, who is still alive, has been described so often as a mere vice crusader that his non-Puritan aspects have been almost forgotten. He could swear most effectively in ecclesiastical language—"the polluted harpies that under the pretense of governing this city, are feeding day and night on its quivering vitals. They are a lying, perjured, rum-soaked and libidinous lot" '—but Lincoln Steffens has pointed out that he was a shrewd leader, "wise" to politics in the suggestive sense of that word. Certainly he knew how to dramatize his fight. He put on a pair of checked black and white trousers, hired a detective for six dollars a day and expenses, and went out to see the underworld for himself. His stories, told from the pulpit, forced the Lexow inquiry which, on the basis of three million words of testimony, disclosed a regular system of police interference at the polls and police payments from disorderly

houses. The facts played an important part in destroying organized prostitution in New York and ultimately in bringing the voting machine.

It remained for the Mazet inquiry of 1899 to lay before the public the spoils system of Tammany. Republican Boss Platt forced the inquiry. Croker was the star of that inquiry. His answers on the witness stand set a record in frankness, and accordingly in the education of the public. The audience at that inquiry when Croker testified behaved very much like the cheering Tammany henchmen who applauded Mayor Walker when he testified before Seabury, but the reaction of the newspaper-reading public was sharply hostile. Croker for the first time laid bare the modified methods of Tammany in winning "honest graft." "If you can show me," he shouted at Counsel Frank Moss, "where I have taken a dollar from this city you can cut that right arm off."

Moss could not show how Croker had taken city funds directly, but he proceeded to show how Croker as an auctioneer and contractor made money by getting contracts which his puppet city officers had the power to grant. One passage from Croker's testimony has become classic as the Tammany credo:

Q. Let us see if my deductions are correct. The judges appointed by Tammany Hall appoint referees, who, in line with their party obligations, appoint auctioneers. . . . And it is the duty of those auctioneers——

A. That referee is appointed by the judge, and he appoints whatever auctioneer he pleases.

Q. But if that referee is a good Tammany man, he should

appoint an auctioneer who is in line with the party, should he not, as a part of the patronage?

A. It all depends on the kind of a Tammany man he is.

Q. If he appoints your firm he does a good party act, does he not?

A. Yes, sir.

Q. Why? If he appoints your firm he does a good party act, you say. Now, I ask you why does he do a good party act when he appoints your firm?

A. Well, all things being equal, he has a right to do it. He is a Democrat himself and he ought to appoint Democrats.

Q. And he ought to do that thing which puts into your pocket money, because you are a Democrat too?

A. Yes, sir. . . .

Q. Then you are working for your own pocket, are you not?

A. All the time; the same as you.[5]

The big corporations of Croker's day did business with him as the big corporations of to-day do business with our present Tammany officials. The Manhattan Elevated Railroad Co. gave his trucking company favors just as the North German Lloyd gave $50,000 to a Tammany lawyer in 1930 for a pier lease—because it was cheaper to do that than to fight.

After the Mazet inquiry the City Club issued a pamphlet in which it said mournfully: "Ground is not wanting for the belief that the power of Mr. Croker is sustained, directly and indirectly by 'respectable and prominent citizens' who believe that it is better to uphold the bosses than to 'imperil the interests, perhaps those of widows and orphans, committed to their charge.' In other words the

theory is that a citizen is justified, when acting as a director, or as the manager of a company in 'doing business' with a political machine, however corrupt and however dangerous to the state." We shall encounter that same theory again and again in the evidence of business men before Judge Seabury in 1932.

Although the Seabury inquiry has not yet been completed as this book goes to press, its accomplishments have already been substantial. It has not only destroyed an organized vice ring that had developed a new form of extortion, and brought about the removal or resignation of many magistrates, police officers, and a mayor, but it has so aroused public opinion that a reconstruction of the city charter giving representation to minority parties may be the final outcome.

As we look back over the history of New York City investigations we cannot help but conclude that investigations do get results. The Tweed prosecutions stopped the worst forms of direct robbery of city funds; the Lexow investigation did much to destroy organized prostitution; the Mazet inquiry made elections more honest and exposed the Tammany machine to public gaze; the Seabury investigation may yet give us proportional representation, and it has accomplished many minor changes which we shall discuss in later chapters.

The greatest weakness of all New York's investigations has been their short-lived effect. "These reform movements are like queen hornets," said an East Side gangster whom Werner quotes. "They sting you once and then

they die." Even when "they sting you once," the sting is fatal to only a few victims. Of all the big men of Tammany exposed by Judge Seabury only Sheriff Farley and Mayor Walker were forced out of office. Tammany has not only succeeded in protecting most of its own but it has quickly come back to power after every exposure. It was defeated at the polls in 1871 after the Tweed scandals and then came back into power three years later. William L. Strong, the reform mayor elected after the Lexow inquiry, lasted two years and then gave place to one of Tammany's worst tools, Robert A. Van Wyck. Seth Low, president of Columbia, served one term as mayor after the Mazet inquiry and then yielded to Tammany's choice, George B. McClellan.

The cynic may say that these spasms of reform were useless, but the fact remains that the quality of municipal service in New York has immensely improved since the days of Tweed and the constant fight for reform has played a real part in that improvement. The failure to defeat Tammany permanently has been due not so much to the failure of investigations as to a particular weakness of reform groups. They are unwilling to face the fact that only a party machine can defeat a party machine. They either vote the Republican ticket or put a "fusion" liberal mayor in place of a Tammany scoundrel and then walk away and leave him, convinced that their victory is proof of the wisdom of non-partisanship in elections. Three or four years later the Tammany machine is back in power again.

One striking example of the naïvete of most civic reformers was the acclaim given to Joseph V. McKee when he succeeded Walker as mayor in September, 1932. Because McKee immediately made some drastic cuts in city waste he was hailed as a city savior. The Seabury inquiry had just revealed that the real trouble with New York was its control by a corrupt Democratic machine. McKee had been a faithful member of that machine, and had voted for the Equitable bus franchise and the salary grabs. He said after assuming office: "I am an organization Democrat, always have been, and always will be." Yet this was the man hailed by many newspapers and realty groups as the coming redeemer of the city.

One mistake of the reformers is their willingness to believe that the Republican machine wants reform any more than Tammany does. Boss Platt was willing to use a reformer to beat Croker, but one term of reform was enough for him. He declared that for the doctrine of non-partisanship in local elections he had "the sincerest and profoundest contempt." He knifed Seth Low in the mayoralty fight of 1897 and threw the election to Tammany's Van Wyck. The same thing will happen over again if reformers trust to the Republican Party to give them any permanent relief from the abuses of corrupt machine rule. And there is a certain justification for this contempt of non-partisan groups. Their results are never permanent.

Theoretically—perhaps—we might imagine a city of seven million people voting wisely regardless of party.

In practical life the picture is impossible. A little reflection compels us to expect what the history of modern times in every country confirms; that politics is and must be an occupation requiring time, an exacting avocation if not a full-time profession. The more complex a community is the greater is the need of the unifying influence of a political party. And a political machine is not necessarily evil. What makes New York's political machine evil is the purpose it serves and the way it serves it.

Democracy, in brief, requires government by parties because the citizens are too numerous, too ill-informed and too preoccupied to come together spontaneously to choose the policies and leaders they wish to prevail. Political machinery has to be worked. The parties work it. Or, slightly to change the figure, political government, especially in modern times, is an engine which cannot be kept going by volunteer stokers and late October bonfires. Your professional politicians are the stokers. Nor need the term "politician" be one of opprobrium. A man who organizes other men in a political group for a high social purpose may be one of the nation's most useful citizens. This is not, of course, to disparage non-partisan action by civic groups to win the support of all parties for intelligent *measures* of reconstruction. One of the chief sources of strength of the City Affairs Committee is that it stands for no party or candidate, but for measures that any progressive party or candidate should support.

One more defect is outstanding in all the investigations of New York. They do not plumb deep enough into the

underlying economic base of Tammany's power. The power of every urban democratic machine in this country could be traced back to an urban plutocracy if the investigators had the will and the understanding to do it. Tammany is an organization for private profit existing in a business system operated for private profit and the two cannot be separated. If Tammany did not exist some other machine would rise to take its place, since the owning class in this country needs political brokers to carry out its will.

The proof of this statement is in the facts that this book sets forth. We hope that before we are through the reader will agree with us that the roots of civic corruption in American life lie deep in a predatory economic system and that the fight for clean government is only one battle in the larger struggle for a just social order.

2

HOW NEW YORK'S GOVERNMENT WORKS

A TEACHER in a school in an outlying region in New York reports that he has a bright class. He asked the boys how they would go about getting a new sewer laid—an important question in that district. At once they told him: "We'd get a petition signed by the property holders and then we'd go to see the district leader." Surely a much more realistic answer than they could have made by memorizing the Constitution of the United States and familiarizing themselves with that strange jumble of laws which the charter of New York City has become. Almost any textbook will anatomize for you the legal skeleton of the body politic; very few will tell you what breathes into it the breath of life and sets it moving. Some textbooks, the ones used in New York public schools for instance, purport to describe city government without even mentioning Tammany Hall.

The fundamentals of New York's legal structure are simple. New York, like all American cities, is a creature of the state. Its powers are derived from the legislature, not the sovereign people. Despite the growing sentiment for home rule and an alleged home rule act, the state can and does interfere with the city by means of all sorts of

mandatory laws. Very few of the items of a program of municipal socialism for New York could be carried out without running to Albany. A legislature in which up-state rural counties are disproportionately represented could, if it so desired, rip up the whole city government. A governor of New York can on charges remove the mayor and the borough presidents although the mayor nominally administers a budget almost three times the size of the state budget and usually exercises far more significant power over the life and well-being of its people than any governor.

This rule of New York City by New York State is one of those anachronisms which survive in America because we treat historical accidents as sacred. The boundary lines of the state, running northward as they do near the Hudson River, and stopping at the southern tip of Manhattan Island, cut off New York City from the Jersey, Pennsylvania and Connecticut hinterland of which it is a natural part. The tying of New York City with its distinctive urban problems to the vast and conservative rural area of up-state New York permits the conservative Republicans to play the countryside against the city. If the arrangement worked for intelligent and progressive legislation and the destruction of Tammany, it might be excusable, but in practice the Republicans at Albany are more reactionary on questions of social legislation than the Democrats. They thwart every forward movement toward unemployment insurance, municipal housing and the better regulation of power companies.

As everybody knows, the present City of New York was created in the year 1897 by uniting the great cities of New York and Brooklyn and the scattered villages of Staten Island (Richmond County) and Queens County, Long Island. The new city took in four counties. These were not consolidated. On the contrary, a fifth county, Bronx, was created. Bronx was a separate borough from the beginning of Greater New York; the other boroughs were coterminous with the counties. Of course the counties have the full—or more than the full—complement of courts, sheriffs, recorders, and the like, all of them supported by the city budget but none of them legally subject to city control. Aside from the function of giving jobs to faithful friends of the political machine, the counties have lost all meaning. They survive because of institutional inertia and Tammany obstruction to reform.

The official government of New York can be seen on almost any Friday in the winter time by visiting the chamber of the Board of Estimate in that little gem of architecture nestled in the shadow of the Woolworth Building, the City Hall. The name of the official government is the Board of Estimate and Apportionment. The visitor who arrived there about 11 o'clock on a Friday morning during the Walker administration and waited until 12 would see seven men stroll in behind the dapper mayor and take their seats behind a large semi-circular desk on a platform. The mayor without any apology for being an hour late would begin proceedings by saying through his loud speaker: "Call the roll." The clerk would call "Mayor,

Controller, President of the Board of Aldermen, President of the Borough of Manhattan, Bronx, Brooklyn, Queens and Richmond." These are the men who are elected every four years to govern the city. Three of them, the Mayor, the Controller, and the President of the Board of Aldermen, are elected at large by the whole city, and they each have three of the board's 16 votes. The borough presidents are elected by each borough and their votes vary, the Manhattan and Brooklyn presidents having two votes each, and the others one.

At most meetings of the Board of Estimate the borough presidents are mere figureheads. Often they send substitutes to represent them except when a borough crisis arises. Otherwise they sit sleepily waiting for the clock to creep to 1:30 when they can go out to a two-hour lunch and transact their important political business. We do not recall in our experience at Board of Estimate meetings a single instance of a comment on any problem by a borough president which showed any careful study of a city-wide situation. The borough presidents sit on the board frankly for logrolling purposes to get all available appropriations and patronage for their boroughs.

Yet this semicircle of sleepy-eyed politicians with a weary showman in the middle is one of the most powerful governments in the world, reckoned in the dollars which it spends and the citizens it controls. It affects the life of the average New Yorker much more than the Congress at Washington or the Assembly of the League of Nations—and one reason why it is such a tragic failure

is that the average New Yorker never stops to realize this fact. It is the only legislative body in New York City with any real power. Nominally it shares its power with the Board of Aldermen, a body of 65 local politicians chosen by Tammany and affiliated bodies, but actually this Board of Aldermen has little power and uses less. It meets once a week for an hour in cool weather and rushes through an approval of the actions of the Board of Estimate. It can and does change the names of streets. It can help to pay itself good salaries. Each alderman for his hour a week receives $5,000 a year and is aided in his deliberations by the protective care of eleven sergeants-at-arms who receive $26,520 a year. The Board of Aldermen is one house of the Municipal Assembly and the Board of Estimate is the other, but only the Board of Estimate can initiate the budget and the Board of Aldermen cannot increase it.

One reason why the Board of Aldermen is so inept is that there is almost no opposition in it to Tammany rule. It includes 64 rubber-stamp Democrats and one voluble Republican. It has amounted to less than nothing since the period several years ago when a delegation of Socialist aldermen made it a platform for some penetrating comments on New York City government.

The same statement could be made concerning the ineptness of the Board of Estimate. Tammany has no political opposition in the board. Borough President Harvey of Queens, nominally Republican, is as docile as a kitten. Controller Berry fights Mayor Walker because

he has political ambitions and because he represents the Smith wing of the party, but he too must pull his punches in a crisis, for Tammany has the power to destroy him. The only colorful fighter on the Board of Estimate in recent years has been Berry's substitute, Deputy Controller Frank J. Prial, and he has caused Mayor Walker sufficient trouble to make the public appreciate what one determined critic in the inner circles may mean to the taxpayers.

The mayor who presides over the Board of Estimate is a person of vast powers. He appoints the executive heads of the city departments, the masters of police, fire, correction, charity, health, hospitals, sanitation, docks, tenement houses, parks and playgrounds. He appoints also the magistrates and the judges of the Court of Special Sessions, and the judges of the Children's Courts, and the members of the Board of Education, and the majority of the members of the Board of Standards and Appeals—although he cannot remove magistrates. If he is a Tammany man (and he usually is) then the Tammany brand is on every department and loyalty to Tammany is the condition of appointment.

The controller is the next most powerful city officer to the mayor. He is the city's chief financial officer although he does not draw up the budget—that is left nominally to the Director of the Budget, Charles L. Kohler, an old-time Tammany district leader. The borough presidents have as their chief prerogative the control of roads, sewers and building permits in their own boroughs, a rich source

of patronage. The wisdom of this borough form of government we shall discuss later. Here we may point out the anomaly of having five sewer departments in five different boroughs and one water department for the whole city; five building bureaus and one Tenement House Department; five highway departments and one Board of Sanitation to keep the streets clean.

Such in outline is the structure of New York's official government. It does immense business. Its budget for the fiscal year 1931 was $621,000,000. It carries 142,650 persons on its payrolls. It has developed an elaborate civil service and has in some of its departments experts, almost unknown to the general public, who would be an ornament to any community.

But the real government of New York does not function at City Hall. It functions at many district clubhouses throughout the city, and at the county Democratic headquarters.

The four most powerful rulers of New York government are the four Democratic bosses of the four large boroughs, John F. Curry in Manhattan, John H. McCooey in Brooklyn, John Theofel in Queens, and Edward J. Flynn in Bronx. When, in September, 1932, it became necessary to decide whether Mayor Walker should run again for mayor, the press and the whole city recognized that the real decision lay in the hands of these four men. Here was a city of seven million people choosing its chief magistrate through four men, not one of whom has ever

shown any great intellectual or business distinction, not one of whom would be chosen by any great corporation, school, or newspaper to direct its destinies.

The reason for this singular spectacle—at least it would appear singular if we had not become so utterly accustomed to it—is that New York is ruled by a closely knit predatory machine whose methods are quite familiar in every large city in America. The machine is based solidly upon the common man's self-interest plus the control of the powers that will satisfy that interest.

Murray Seasongood, formerly Mayor of Cincinnati and now president of the National Municipal League, sums up the matter thus: "It is assumed that every one wants something. Even the strictly honorable want honors. In the list of illegitimate favors are to be counted; unconscionable grants to public utilities; undeserved deposits to friendly banks; low valuation for taxation to large corporations and individuals with a pull; a complaisant building inspector; delinquent taxes allowed to remain delinquent; appropriation for public purposes of property no longer desired by the owner at a price far in excess of actual value. For the less powerful, there are grants of market or parking privileges, poor relief, indigent soldier burials, taking care of traffic citations, lending dogs from the dog pound, and so on down to the right of unmolested profitable street-begging." [1]

To which we may add that in our experience we have never seen any pushcart peddler essentially more obse-

quious to Tammany in the height of Jimmy Walker's power than representatives of some of the great Merchant's Associations which wanted something.

Under the Tammany system the place where men go when they want something is the district clubhouse presided over by the district leader. Behind a desk in this clubhouse the leader sits for several hours almost every night in the year while petitioning citizens interview him. They want city jobs or excuses from jury duty, or peddlers' licenses, or mercy from a local magistrate. The district leader hears their stories and reaches a decision. If he agrees to do something, the arrangement is colloquially called a "contract." It is not necessarily based on any direct payment to the leader or even a pledge to vote the Democratic ticket. The leader takes it for granted that when he gives favors to people they will support him politically. He is always on the lookout to secure young followers to work for the machine on promise of promotion to a good job if they are faithful. "Better join my club," said a district leader recently to one of our young Socialist friends. "I can give a bright future to a young man like you and I need somebody who can read and write."

The leader's income is derived partly from the dues of his club and partly from a city salary for some sinecure, but mostly from the kind of commissions and direct graft which we shall describe in the next two chapters. Before the Seabury inquiry began Professor Joseph McGoldrick of Columbia, who is an authority on New York's govern-

ment, said that "a gross return of $100,000 a year is probably fairly common" for the Tammany district leader, and the inquiry proved that his estimate was modest.[2]

Roughly speaking, a political district corresponds to an assembly or aldermanic district.

The Republicans and Democrats usually maintain at least one clubhouse in each district, although the Republican clubs have been going bankrupt in the lean years of the depression at an alarming rate. Each district has its Democratic and its Republican leader, who are usually friends, except at election time, and even then ready to unite against the Socialists. The Republican and Democratic leaders need each other. Powerful as the Democratic leader is, one of his constituents or clients may have some trouble about a passport or the admission of a relative at Ellis Island or bootlegging or an income tax case which the Republican leader presumably is in better position to care for when the Republican party is in control at Washington. What is simpler than for the leaders to meet and exchange "contracts"! The Republican leaders, however, are greatly handicapped by the rule that a Federal employee cannot actively take part in politics. Maintaining a Republican machine on a strictly amateur basis is a difficult task in opposition to a Tammany machine which may directly or indirectly affect the choice of 600 job-holders in each political district.

The district leaders are the governing oligarchy in each county and they choose the Currys, McCooeys, Theofels and Flynns. Curry, boss of Manhattan, was elected by the

district leaders by a very close vote, and he acts accordingly. The cherubic-faced McCooey of Brooklyn has a grand machine and is able to do marvelously well for all his relatives, but he has to respect his district leaders and his fellow county bosses, notably Curry of Tammany, and he does not forget it. There is no one boss to-day in New York of the dimensions of Croker or even Murphy. Each county boss is only *primus inter pares,* and he knows it.

There is not even, technically speaking, a city-wide political machine, Democratic or Republican. The county is the unit and technically, Tammany is confined to Manhattan. Its commanding position in the alliance of five Democratic machines is due to its age and prestige, and its control of the borough which, though no longer the most populous, is still the center of wealth and civic activity. Tammany proved its power, when with the all-important help of Al Smith—who later regretted his choice—it supplanted Hylan of Brooklyn with Walker of Broadway in 1925. Since then Walker's fortunes and Tammany's have been closely intertwined.

But it should not be supposed that because Tammany is dominant in the Democratic organization to-day it will always remain so. Flynn of the Bronx has been backing Roosevelt consistently, and McKee is Flynn's protege. If McCooey should join forces with Flynn New York might see a real war in the Democratic Party. It would be a war without principles, solely for personal advantage.

The district-leader government maintains a nominally

democratic form. The party members in each county choose a county committee—an immense affair which in Manhattan numbers over 5,000 people—and this county committee chooses a County Executive Committee of about 30 district leaders who really run the government of the borough. The County Executive Committee has two very important subcommittees which are inner circles of wisdom and power, the Steering Committee and the Law Committee, referred to in popular parlance as the War Board. The county leaders like Curry and McCooey are chosen by the district leaders of the executive committee.

Above this official party hierarchy is the window-dressing of the Tammany Society itself, which is a fraternal order having 13 sachems—and an annual celebration on the 4th of July. Nominally, Tammany Hall, the popular name for the Democratic organization in Manhattan, is separate from the Tammany Society. Actually the separation is a legal fiction and both are controlled by the same group. When a crisis occurs, the big official limousines with city-paid chauffeurs roll up of an evening to Tammany Hall on 17th Street and Union Square and the district leaders, and sometimes the sachems, put their heads together in the inner sanctum where the dour-faced Curry sits beside a desk with a silver-framed portrait of Alfred E. Smith upon it. Here mayors, judges and governors are made and unmade.

The one thing that a district leader must always do is to control the primaries in his district. This depends not

only on his skill in dispensing all sorts of favors but on his success in holding his precinct leaders in line. These precinct leaders get out the vote at elections, and what is more important for the machine, at primaries. It doesn't take many votes in a precinct to win the ordinary primary. The precinct captain can always count on his own old guard, the 600 officeholders in each district, the grateful recipients of favors, personal friends and relatives. Before the non-partisan reformer is aware of what has happened, the nominations of both old parties are completed and he is left to protest in futility, especially if the Socialist Party is too "radical" for him and he shrinks from the party label. Only in the rare event of a well-organized attack by a rival aspirant to power in the organization, or the still rarer event of a popular uprising does the district leader need to worry. Political death comes with failure to carry a precinct or a district in the primary. To lose your district in an election may be forgiven—Mr. Curry, at least once, has openly and successfully supported an opponent of a leader who failed to carry his district—but to lose your district in a primary is political suicide.

We have said that the power of the political machine rests upon its ability to give all sorts of people something. That something has almost infinite variety. It shades from legitimate and kindly service to men and women, bewildered by the complexity of the city, to highly illegitimate service to some favored contractor, landowner, or criminal with a pull whose case must be fixed. Government even in its more serviceable aspects is still a fearsome thing to

the average man and he looks around as from time immemorial for a friend and protector. This the district leader or one of his lieutenants is. Nor is he usually anxious to tell his constituent that he does not always need his intervention with the lower courts and the various city boards. Your typical politician is always ready to claim credit for unnecessary services.

Much is sometimes said of the political machine—especially Tammany—as a great benevolent organization. Actually it is generous with other people's money. It does not forget its own coffers. A typical district leader never gives away anything of his own, unless it is his time, and even for that he is well repaid. The main reliance of a district leader is the favors he can get from the city administration which he helped to put and keep in office. His own largesse, such as the spectacular gifts of the old Sullivan clan at the holiday season, or the outings of a Tom Farley association, are secondary. Even they are paid for out of the pickings of the leader which he derives as perquisites of his power.

Religious and national fellowship also tends to strengthen Tammany, which is led by Irish Catholics, who cleverly play for the coöperation of conservative Jewish voters and usually get it. The radical Jewish voters are the most intelligent and hopeful group in the city but they by no means constitute a majority of Jewish citizens. Tammany's methods of religious allottment we shall discuss later. Suffice it to say here that Tammany is very wise in its appeals to religious and racial feeling. "Po-

litical leaders of each faith," says Prof. Joseph McGoldrick, "attend the functions of all. Goldfogle marches in the St. Patrick's Day parade. Walker and McCooey attend the Purim ball. Smith issues a message of greeting at Rosh Hoshannah. The P. V. McCarren Club last year distributed $2,000 worth of matzoths."

The Protestants are not so effective in New York politics because they are divided and because there are not so many of them as Catholics or Jews. The Catholics and Jews combined outnumber the Protestants six to one. Greater New York has 1,734,000 Catholics and 1,765,000 Jews, but only a little more than half a million Protestants. Of course, these statistics are for church membership only. Almost half of the people of New York do not belong to any church.

The faithful servants of a district leader are promoted on a systematic basis. At least twenty members of the average district club have good paying city jobs. The humble but all-important precinct leaders are given minor clerkships or those famous sinecures, the corporation inspectorships, which entail no work and may bring pay from both the city and the corporations "inspected." The youngest and most unimportant lawyers are sent to the State Assembly where the pay is low, only $1,500, and the frequent absences from the city inconvenient. The next highest office for the faithful is that of alderman which pays $5,000 a year but which is usually reserved for the docile and the stupid as a position in which any brilliance would be an embarrassment to the party. Above these

lower orders come the big commissionerships and chief clerkships with salaries above $5,000, which the district leaders themselves take as side lines. Above these come the judgeships and the borough presidencies, all controlled by the same bosses. The ownership of the mayor is the condition for control of most of these appointments, which is the main reason why Tammany is always so much more interested in that office than in any other.

Eighty-five Republican and Democratic district leaders on the city payroll have an average salary of $7,300. Of course, they occupy positions at the top of various departments where they are exempt from civil service examinations. The Civil Service Reform Association in May, 1932, published a list of 106 Democratic and Republican district leaders and their relatives on the payroll who drew $715,000 a year from the city without taking civil service examinations.[8] In many cases the leaders secure official jobs for several members of their families and reap a personal harvest through such side lines as insurance and real estate. A woman Tammany leader (each district has a woman co-leader for decorative purposes) is usually satisfied if a husband or son is given a city job. Some of the leaders and their salaries, with their relatives indicated by brackets, include:

Daniel E. Finn New York County Clerk, $15,000.
(Daniel E. Finn, Jr., secretary to Supreme Court Justice, $6,500.)
(Mrs. Mary A. Finn, Deputy Clerk, Municipal Court, $4,000.)

Mrs. Mary E. Dunne, no position.
(Joseph J. Dunne, Third Deputy Commissioner, Tenement House Department, $6,000.)
Christopher D. Sullivan, Member of Congress.
(Christopher D. Sullivan, Jr., attendant to judge, Court General Sessions, $3,000.)
Harry C. Perry (former leader), Chief Clerk, City Court, $12,000.
William L. Kavanagh, Deputy Commissioner Water Supply, G. & E., $8,500.
Charles W. Culkin, former actuary auditor, Finance Department, $8,000.
(Thomas J. Culkin, secretary to commissioner, Department Water Supply, G. & E., $5,000.)
(Gerald P. Culkin, clerk to justice, Municipal Court, $3,000.)
William J. Ahearn, no position.
(Edward J. Ahearn, law assistant, Surrogate's office, New York County, $8,000.)
Mrs. Mary E. O'Connell, no position.
(Maurice O'Connell, clerk to justice, Municipal Court, $3,240.)
Solomon Goldenkranz, First Deputy Commissioner of Docks, $8,000.
Terence F. McKeever, Member of Board of Assessors, $8,000.
Walter T. Fitzsimons, Deputy Commissioner of Records, Surrogate's Court, New York County, $9,000.
Charles L. Kohler, Director of Budget, $17,500.
Martin G. McCue, Clerk, Surrogate's Court, New York County, $11,000.
(Martin G. McCue, Jr., clerk to justice, Municipal Court, $3,240.)
Andrew B. Keating, Deputy Controller, $10,000.
Thomas M. Farley, former Sheriff, New York County, $15,000—now removed.
(Terence V. Farley, Clerk, Municipal Court, $4,500.)
John E. Sheehy, Sheriff, New York County, $15,000.

H. Warren Hubbard, Commissioner of Public Works, $12,000.
Mrs. Katherine D. Codding, no position.
(Arthur H. Codding, Secretary to Commissioner, Board of Transportation, $4,800.)
Mrs. Clara Gompers, no position.
(Louis Gompers, secretary to justice, City Court, $4,500.)
James J. Sexton, President Department Taxes and Assessments, $15,000.
William J. Heffernan, Commissioner of Elections, $8,000.
Henry Hasenflug, Under-Sheriff, Kings County, $6,500.
(Henry Hasenflug, Jr., Clerk Board of Elections, Queens, $2,820.)
(August Hasenflug, confidential clerk to justice, Kings County Court, $5,750.)
(John Hasenflug, clerk to justice, Municipal Court, $3,240.)
Hyman Schorenstein, Commissioner of Records, Kings County, $7,500.
John Theofel, clerk, Surrogate's Court, Queens County, chairman executive committee, $8,000.
John A. Lynch, county leader, President Borough of Richmond, $20,000.
David S. Rendt, Commissioner Public Works, Richmond, $12,000.
Philip F. Donohue, treasurer of Tammany Hall, member Board Water Supply, $12,000.
James F. Egan, former secretary of Tammany Hall, Public Administrator, New York County, $10,000.
Valentine J. Hahn, Commissioner of Elections, $8,000.
John J. Knewitz, Commissioner of Records, Bronx, $9,000.
John R. Crews, Commissioner of Taxes and Assessments, $12,000.
Jacob A. Livingston, Commissioner of Elections, $8,000.

The last four of these gentlemen are Republican district leaders, a fact which should surprise no one because Tam-

many believes in purchasing the docility of the Republicans by such appointments. When James J. Walker represented New York at the Philadelphia Sesquicentennial he summed up Tammany's magnanimous attitude toward the Republicans in this speech: "If Bill Vare, Fred Kendrick and Charley Hall lived in New York, they'd be Tammany leaders, and if John McCooey, Judge Olvany and Jim Egan lived in Philadelphia, they'd be making up the Republican slate. We're all God's children and I don't believe in taking party politics too seriously."

The Civil Service Reform Association estimates that half of all the employees on the city payroll who are exempt from civil service examinations could be eliminated without loss and thus save New York City $25,000,000 a year. That $25,000,000 helps to keep the Tammany machine in power. Ostensibly, of course, it is payment for service, and no one can prove how much is graft until an independent efficiency commission is permitted to make a real survey of all city jobs and to eliminate the chair-warmers. While the political deadheads sit comfortably upon the city payroll, the mayor and other leaders divert attention by delivering solemn speeches on economy. The various Tammany department heads "economize" while they are traveling about the city in unlabeled automobiles driven by chauffeurs on the public payroll. They cruise in 71 Cadillacs, 12 Lincolns, 24 Packards, 10 Pierce Arrows and a Duesenberg. When McKee succeeded Walker in September, 1932, he reduced this automobile extravagance, but we doubt that the reduction will be

permanent. The Tammany government leaders have incorporated city limousines into their family standards of living, and to return to subway riding would be just too painful.

In Mayor Walker's administration the Tammany officeholders threw all caution to the winds in rewarding themselves. The Mayor boosted his salary in 1929 to $40,000, almost three times the salary of a member of the President's cabinet. The salary of Charles Kerrigan, the Mayor's assistant, was raised to $17,500, of the controller to $35,000 and of the president of the board of aldermen to $25,000.

The question may arise why we permit such favoritism to political leaders. Don't the civil service laws protect us? Yes and no—mostly no. Tammany has developed a smooth-working system for evading the purpose of the civil service laws in the selection of the city's employees. It is aided in this maneuvering by a politically controlled Municipal Civil Service Commission. The state constitution says that "appointments and promotions in the civil service of the state, and of all the civil divisions thereof, including cities and villages, shall be made according to merit and fitness, to be ascertained as far as practicable by examinations which, so far as practicable, shall be competitive." A splendid law, but what is "practicable"?

Practicable, says Tammany, means if it can't be done any other way. Tammany's interpretation of the law has accomplished the following results with the city's 142,650 employees. (This number includes 3,500 county em-

ployees.) At the top of the government and the payroll come the mayor and other elected officials, and the heads of departments, 244 in all, who never need to pass any examination except that administered by the district leaders. They get $3,000,000 a year, an average of more than $12,000 each. They are called the unclassified officers and they include the district leaders we have just listed and other favorites of the machine. Next under them on the payroll come about 900 employees of the "exempt class" such as secretaries and deputies. They receive $6,700,000 or more than $7,400 each. They are exempt supposedly because of their intimate personal relationship to the heads of the government but actually because of the opportunity which this classification affords to pay large salaries to political henchmen.

Next beneath these exempt favorites come a non-competitive class of 11,250 employees who do the cheaper forms of work in hospitals and public institutions. They include orderlies and untrained nurses and scrubwomen. The assumption is that the qualities of such workers can be discovered only by experiment and not by examination. They must submit some kind of a record of their experience but it is usually only a formality. The city pays them about $10,000,000 a year, or $17 a week each—some work only part time. In practice they are almost as dependent upon political favoritism as their overlords. They fawn upon the district leaders and work for the organization ticket with the desperate earnestness of men whose bread is at stake.

Next to them in the scale come the 54,600 city workers who actually pass competitive examinations and draw $148,000,000 from the taxpayers, and the 44,500 school teachers. These two groups are the backbone of the civil service. Beneath them in the scale come about 27,250 laborers whose only examination is a physical examination and who are allegedly employed by the city in the order of their application. In practice these "laborers" sometimes include typists and clerks squeezed in by their political friends after failure to pass examinations in their rightful classes.

Officially this is the picture of New York's government by civil service. The system has one outstanding merit; the departments controlled by the mayor including police, fire, health and docks, have a flat rule that employees must be chosen in numerical order as they pass the civil service examinations. But the courts, the borough presidents' offices, and the Finance Department are not controlled by these rules. And, what is much more important, virtually every civil service department is ruled by a political chief whose recommendations for promotion may be based on partisan bias. Many of the departments where competitive examinations are supposed to rule are rotten with favoritism.

Last year, for example, the City Court chose seven clerks supposedly by civil service examinations. The justices, of course, had almost nothing to do with their selection. The orders came from Tammany Hall that, whatever the result of the examination might be, three men

were to be squeezed in somehow. We will call them Herman Cohen, James Callahan and Louis Cravello and we will simplify the situation for purposes of brevity. When the examination was held these men came out 11th, 12th and 15th as follows (names fictitious):

1. John Gordon
2. Richard Hoyt
3. Karl Miller
4. David Bowman
5. Patrick Malone
6. George Merrick
7. William Dietrich
8. Ernest Babcock
9. Jan Capek
10. Isidore Lash
11. Herman Cohen
12. James Callahan
13. Mark Van Norden
14. Peter Turner
15. Louis Cravello

The Tammany arithmetic experts puzzled a long time over this list before they worked out a method of eliminating enough men to put Cohen, Callahan and Cravello in office. This is how they finally accomplished the trick.

The famous 1 in 3 civil service law says that when an opening is to be filled by civil service examination, the department needing a new employee must take one of the first three men on the list of successful candidates. The acceptance is recorded by a process called certification. The Civil Service Commission in this case certified the three highest men, John Gordon, Richard Hoyt and Karl Miller to the City Court. The department passed over the

first two on the list in choosing the first clerk and certified Karl Miller because he was a local district worker. Then the Civil Service Commission certified the first three remaining names and sent back the list for the appointment of the next clerk with Miller eliminated and David Bowman as No. 3. The department chose Bowman for the same reason it had chosen Miller. Then a Tammany insider brought pressure to bear upon Patrick Malone (No. 5) and persuaded him on a plea of "harmony" to waive appointment, so the third certification of the three highest names placed George Merrick at No. 3 under Gordon and Hoyt. The department thereupon chose Merrick (No. 6).

Now, a trick in the law helped Tammany to reach its favorites. The law says that when a man who has passed a civil service examination has his name certified three times to a department by the Municipal Civil Service Commission and each time his name is passed over for some one else, then his name is dropped from among the applicants for that particular job. So after three trials, the first two men on this list, John Gordon and Richard Hoyt, were dropped, and when the list was returned to the department for the selection of the fourth clerk Dietrich, Babcock and Capek who had originally been seventh, eighth and ninth were now first, second and third. Capek was chosen, and Dietrich, Babcock and Lash were certified as the three highest for the selection of the fifth clerk.

At this point the Tammany manipulators saw that they could not squeeze in Cohen, Callahan and Cravello even by this trickery of elimination unless one remaining applicant was forced out. Four clerks had been already chosen

and there were only three berths left. So they forced out Lash by a series of threats which finally persuaded him that his life would not be worth living if he should secure the position. That made Cohen, the first of their favorites, No. 3 on the fifth list, and they chose him for the fifth clerk. Then Dietrich, Babcock and Callahan were certified for the sixth list and the department chose Callahan. Here the rule of three rejections entered in again and Dietrich and Babcock, each of whom had been passed over three times, were eliminated.

So, on the final list of three for the selection of the seventh clerk, Louis Cravello, whose appointment had been the chief aim of Tammany from the beginning, was certified as No. 3, and was chosen. This is what the order of "merit and fitness" looked like when Tammany was through:

1. John Gordon (eliminated by jugglery)
2. Richard Hoyt (eliminated by jugglery)
3. Karl Miller (chosen)
4. David Bowman (chosen)
5. Patrick Malone (persuaded to withdraw)
6. George Merrick (chosen)
7. William Dietrich (eliminated by jugglery)
8. Ernest Babcock (eliminated by jugglery)
9. Jan Capek (chosen)
10. Isidore Lash (forced out)
11. Herman Cohen (chosen)
12. James Callahan (chosen)
13. Mark Van Norden (left at the post)
14. Peter Turner (left at the post)
15. Louis Cravello (chosen at last)

It is not surprising in these circumstances that almost every man who wants a civil service job in New York feels impelled to make a contact with a district leader in addition to preparing for his examination. The examinations themselves are probably administered honestly enough but the rule of 1 in 3 and other tricks of the trade may nullify the highest standing. An applicant who is not wanted by the politicians may be called in and told plainly that he is not wanted, or he may have the situation and its possibilities entirely misrepresented to him. Sometimes a favorite receives a tip to underbid his competitors for a job and, after he has been working a short time, his salary is raised.

Special tricks are permissible in the making of contracts with "experts." The Board of Education hired the famous Dr. William H. Walker, brother of the Mayor, as a medical examiner and consultant without examination because the civil service law permits the city to hire scientific or professional service of an "expert nature" on a part-time basis.[5] Dr. Walker's right to hold such a job without examination is now being contested in the courts by the Civil Service Reform Association.

The fight for civil service standards in New York during the last ten years has been, on the whole, a losing fight. Tammany has increased the exempt positions 30 per cent since 1920 and its war of attrition constantly goes on. The State Civil Service Commission has thus far been the chief bulwark of the merit system and, fortunately for New York City taxpayers, no new exemptions

may be granted without state sanction. The state commission is constantly attacked by the city civil service commission to open the political floodgates to Tammany patronage, but in 80 per cent of the cases in the last five years the state commission has refused.

In this outline sketch of the political engine which runs the somewhat complicated machinery of Greater New York it remains to add only a few words about the function of women as voters since the adoption of the nineteenth amendment. Despite the intelligent activities of such groups as the League of Women Voters and the Women's City Club, women in general have fitted very docilely into the Tammany scheme of things. The percentage of women who vote at all is even lower than the percentage of men. The masses of women, being peculiarly responsible for spending the family income and peculiarly charged with the duty of seeing that their children are fed, are peculiarly susceptible to the fears and favors doled out by district leaders. Few women, even among those who are dependable Democratic or Republican voters, are very active in party affairs along their own lines.

Both parties have women as co-leaders in the districts; none of these co-leaders has developed great power in her own right. Tammany has no women sachems and no women on its important committees. In a great many districts women do the bulk of the clerical work as election inspectors, and Socialists know from experience that they can be at least as adept as the men in vote stealing. In

short, until now the coming of woman suffrage has made no perceptible difference in city affairs except that on the whole women, for ecclesiastical and other reasons, are a little more inclined to be suspicious of such things as Socialism. Sex has little to do with civics of either the theoretical or the practical brand. City politics, we conclude, are better explained in terms of Marxism than Freudianism!

3

THE NEW TAMMANY AND THE TIN BOX BRIGADE

THE new Tammany is the old Tammany with the wisdom of age and experience added. Its guile and aplomb have increased until to-day it has a legal device for every possible type of looting and a moral explanation for every bribe. As the years have gone on a noticeable shift in tactics has occurred. The votes of aldermen and other city officials are almost never sold directly and the city treasury itself is relatively safe from theft. The real fortunes of the new Tammany are gathered through brokerage services.

Look, for example, at the Tin Box Brigade, who crossed the witness stand before Judge Seabury. Farley was interested in gambling rights, Culkin in building permits, Doyle and Olvany in zoning privileges, Maier in pier leases, Dr. Walker in compensation fees, and McCormick in marriage licenses. A large part of the activities of these gentlemen was and is strictly legal, and it is to be noted that no one of them, even the notorious Dr. Doyle, was convicted of any crime as a result of the Hofstadter legislative investigation. That is the characteristic of the new legal graft of Tammany Hall. For every type of exploita-

tion it has developed a technique for coming within the limits of the law. And if occasionally some undisciplined or crude member of the brotherhood does step over the edges of legal propriety, what a host of legal luminaries spring forward to defend his constitutional rights before Tammany appointed judges!

Sometimes the exploitation of the public by Tammany brokers takes place entirely outside of official activities. Boss Curry and Boss McCooey sell insurance—and what ambitious young contractor doing business with the city could fail to see the advantages of such useful contacts? Theofel sold automobiles whose streamlines appealed to the esthetic sense of an astounding number of Queens officials. We shall describe his methods later.

The patriots of the Tin Box Brigade can be understood only if they are regarded as members of a genial brokerage brotherhood. They did not regard themselves as particularly guilty. Not one of them in testifying before Seabury broke down and told the whole story. If they had been able to express their defense in general sociological terms they would probably have said that they were applying the methods of the business system to politics a bit too successfully. Other men got jealous, chiefly Republicans, and forced an investigation to get in on the loot.

Farley became the most famous of the brigade chiefly through accidental circumstances. Probably he was no worse than his associates; he simply captured the spotlight first and was unlucky enough to arrive on the scene at a

time when Franklin D. Roosevelt could politically afford to demonstrate a high moral courage. Genial, popular Thomas M. Farley was Sheriff of the County of New York and leader of the 14th district of Manhattan. He had been successively alderman, deputy county clerk and county clerk—a quite typical career for a popular servant of the people who was faithful to Tammany. Then Seabury got him. He was arraigned before a packed house at a time when New York was ready to listen. Seabury asked him to explain bank deposits of $360,000 in seven years. He stuttered and stammered. His total salary and other explainable income during those seven years had not been more than $90,000. Where did the other $270,000 come from? Farley finally confessed that he kept at home a "wonderful tin box" and that he drew out from time to time the moneys which swelled his bank accounts.

"Now, in 1930," Seabury asked, "it appears that you deposited in cash in the Chatham and Phenix and in the Harriman and in the Emigrant over $13,000 in cash. Where did that cash come from, Sheriff? A. Well, that is—my salary check is in there.

"Q. No, Sheriff; your salary checks aggregated $12,876.09, which is exclusive of the cash deposits which during that year you deposited in those three banks. A. Well, that came from the good box.

Q. Kind of a magic box? A. It was a wonderful box." [1]

New York rocked with laughter. The first big act of the Seabury show had scored heavily.

Judge Seabury filed with Governor Roosevelt charges

against Sheriff Farley, saying: "That he has demonstrated his incompetence to hold the said office of Sheriff, by reason of his ignorance of the duties of his office and the laws of this State pertaining to the same, and by reason of the appointment to and retention in office under him of incompetent and unworthy persons; that he has sworn falsely under oath at public hearings before the Joint Legislative Committee; that he has failed to account for or to explain the receipt and possession of large sums of money in excess of his salary as a public officer or income received from any admitted occupation or from investments, upon all of which grounds and by reason of any and all the charges hereinabove enumerated, it is respectfully submitted that said Thomas M. Farley should cease to be an incumbent of the office of Sheriff of New York County."

Farley was removed from office but not from his position as a leader of the Tammany organization. After his amazing testimony three great banquets were given at one of New York's leading hotels, supposedly at $40 a plate, at which he was the guest of honor. Many of New York's leading business men and several prominent churchmen were present at those dinners.

Along with his charges against Farley, Seabury had submitted facts against two of Farley's under sheriffs, Peter J. Curran and Joseph Flaherty, which were startling enough to provide a sensation in ordinary times but which Governor Roosevelt blandly ignored. About Curran, Seabury said: "Between 1925 and 1931 he deposited $662,331

exclusive of the proceeds of notes discounted, sales of securities and interest, practically none of which is credibly explained." That was almost twice the deposits of Farley, but Mr. Curran remained in office under Roosevelt's appointee, Sheehy, after his chief, Farley, was removed, and the City Affairs Committee squandered a few postage stamps in trying to get him removed.

Farley was only the first of a series of tin box sensations. The other brokers had other sources of revenue—presumably Farley's sources were largely in the underworld. James J. McCormick, leader of the 22nd district, Manhattan, believed in love and marriage fees, and as deputy city clerk he pocketed at least $150,000 in such fees in six years.[2] During those six years he put $384,788 away for a rainy day. He was indicted but acquitted.

Much more important than these district leaders were the two great zoning racketeers, Dr. William F. Doyle and Judge George W. Olvany, the former leader of Tammany Hall. (For the chronological order of these scandals and the official details we refer the reader to the Calendar of Scandals in Appendix I.) Doyle held the spotlight for many months because of his persistent silence and the elaborate maneuvers of the Tammany legal hierarchy in protecting him. He was a former veterinarian who had acquired magic power over the zoning regulations of the city and incidentally banked more than a million dollars in the process.[3]

In a city like New York the right to change the zoning laws may make or break a man's fortune. The city has

adopted very strict and, on the whole, intelligent regulations to exclude factories from residence districts, to control the location of gasoline stations, and to determine the setback of high buildings. Since all laws should accommodate themselves to changing conditions the city has given to the Board of Standards and Appeals the necessary power to make modifications in the zoning laws upon application. The application is usually presented to this board of five people, all of them political appointees, by some professional representative or sponsor. Naturally, the citizen whose land may be raised in value from $10,000 to $50,000 by a special ruling is anxious to employ the representative before this board who will produce the best results.

From 1925 to 1931 apparently every one in the city except Mayor Walker who knew anything about city government, knew that Doyle was the man to see about zoning regulations. Although he was never admitted to the bar, he won for his clients between June 22, 1922, and Dec. 31, 1929, 244 permits for garages in districts otherwise restricted against them and after permit applications had been turned down by the building superintendents in the various boroughs; 52 permits for gasoline stations which had previously been turned down by the building superintendents of the Fire Prevention Bureau; 187 modifications of departmental orders either under the State Labor Law, the Fire Prevention Rules, or the Building and Tenement House Department Rules; 7 permits to vary the height of buildings curtailed by the zoning law; and 6 per-

mits for wet wash laundries in restricted districts, after the permits had previously been refused by the building superintendents.[4]

Most significant of all, during 1928 and 1929, Doyle persuaded the Board of Standards and Appeals to reverse itself in forty-nine cases after he had taken these cases on appeal when other lawyers had failed.

These amazing decisions were almost all concurred in by the three present members of the Board, Guilfoyle, Connell and Holland, whose vote is necessary in order to make any modification in the zoning law.

Next in fame to the practice of Dr. Doyle before the Board of Standards and Appeals had been the practice of the firm of McCooey and Conroy, headed by John McCooey, Jr., son of the successful Brooklyn philanthropist, and now promoted to the Supreme Court.

The case of the application of McCooey and Conroy on behalf of Joseph Zorn for a gasoline station permit at 2576—86th Street, Brooklyn, will serve to illustrate the kind of case in which favored practitioners got concessions from the Board.

The decision in that case, handed down on June 9, 1931, is nothing less than astounding. The applicant obtained a permit for a gasoline station in 1928. This permit was obtained by fraud and after the fire commissioner, superintendent of buildings, and the Board of Standards and Appeals refused to set the permit aside, it was declared illegal on July 7, 1930, by Mr. Justice Cropsey of the Supreme Court of Brooklyn, whose deci-

sion was sustained by the Appellate Division and the Court of Appeals. On the basis of that decision the Board of Standards and Appeals revoked the permit on the ground that it had been fraudulently obtained

Mr. Zorn pleaded guilty on April 19, 1929, in the Magistrate's Court to a charge of violating the building zone resolution in attempting to install a gas tank without any authorization. Despite the decision of the Supreme Court, the Appellate Division and the Court of Appeals, despite the action of the Board itself in revoking this permit, and despite the record of the applicant's guilt in the Magistrate's Court, when an application was made to the Board in 1931 by the same Mr. Zorn, by McCooey and Conroy, for a permit to operate this very same gasoline station, and a variation of the zoning law on the ground of hardship, the Board of Standards and Appeals granted the application and refused to pass upon the question of fraud, thereby flouting its own decision and the decision of the Supreme Court.

In the end Seabury was completely baffled by Doyle. In order to force him to talk a special session of the legislature passed special immunity laws, and then all that Doyle would say was that he never had given a bribe to a public official. Then why had he declined to answer a perfectly plain question in the first place and why had he argued that an answer might tend to incriminate him? He had admitted splitting fees but he steadfastly denied giving any fees to city officials. To whom did he pay them? Directly to the Tammany overlords? Certainly

Tammany supported him more anxiously than any other man involved in the inquiry. John F. Curry personally fought the battle in the courts to keep him out of jail for contempt.

During all this agitation Mayor Walker preserved an attitude of aloofness. His close friend, William E. Walsh, chairman of the Board of Standards and Appeals, resigned under fire, was indicted and, as usual under Tammany prosecution, acquitted. The mayor finally appointed a "citizens' committee" to look into the board's practice. The committee reported that the entire board should be reorganized, whereupon Walker thanked the learned collaborators, put the report in a pigeonhole and did nothing. The men who gave Dr. Doyle and John McCooey such astounding favors are still running the Board of Standards and Appeals.

The theory that there was a direct and corrupt connection between the Board of Standards and Appeals and Tammany gains some plausibility when the case of George W. Olvany is studied. Olvany sold his political influence with the Board of Standards and Appeals in several famous zoning cases and then concealed his interest in the cases by having another lawyer serve as the attorney of record. Olvany received his fees for such practice while he was leader of Tammany Hall and concealed the receipt by taking his firm's share in cash instead of checks. How the racket operated was revealed in the case of the builder, Fred F. French, and his construction of a building at 551 Fifth Avenue.[6]

Mr. French wanted to build a certain wall in his new building somewhat higher than the height limit prescribed by the setback provisions of the zoning law, so he approached Olvany's law firm to get help from the Board of Standards and Appeals. He was referred to a lawyer whom he knew named John N. Boyle and was told to deposit $35,000 with Boyle to get the permit in sixty days, the money to be held in escrow and returned if the Board did not give him what he asked. The Board did, whereupon Boyle at the request of a member of Olvany's firm gave $25,000 in cash to a firm member, took $5,000 as his own fee, and returned the rest to French. Where did the $25,000 go? Judge Olvany took a high position in the whole matter and declined to allow Seabury to examine his firm's books.

But Judge Seabury gave the city a fairly convincing picture of the income-producing habits of a Tammany leader before he was through with Olvany. He showed that the same kind of farming-out process in zoning cases that had occurred in the French Fifth Avenue building case had occurred also in the cases of No. 1 Wall Street, the Irving Trust Building, and a block of residences in the Murray Hill district, which had been rezoned in spite of strong local protest. Olvany would assign the work to some other lawyer of record and take the prodigious fee himself. Perhaps that is one reason he lost his position as head of Tammany Hall—he was reputed to be grasping and ungenerous with his spoils. But there can be no doubt of his success. His firm deposited $5,283,000 in the bank

from 1925 to 1931. In one instance Fred F. French after paying $75,000 not only got the Board of Standards and Appeals to change a zoning regulation in Tudor City but he even persuaded the Board of Estimate to amend the building zone resolution affecting that area over the opposition of the board's own engineers. Olvany's firm received $71,000 of the $75,000 fee for its strenuous labors in this case without appearing in the record.

After Seabury had demonstrated how to get a change in the zoning laws he proceeded to demonstrate how to get a pier lease and a bus franchise. Bus franchises are granted by the Board of Estimate after public hearings and each franchise is supposed to be granted to that responsible bus company which will give the city and passengers the best contract. As we shall show in a later chapter, the franchises are not usually granted on an impartial basis. Some companies appear with loaded dice and their unfortunate competitors find themselves under attack on the most trivial grounds. In the case of John A. Lynch, borough president of Richmond, a franchise for the Tompkins Bus Corporation was granted on July 28, 1927, to operate buses on Staten Island, although this company's record was full of irresponsible and illegal acts. Lynch recommended the Tompkins company, and, since he was borough president of the area where the buses were to operate and since he had just dutifully voted for Mayor Walker's notorious Equitable bus deal, his recommendation was followed.

Why did Lynch vote for such a company when it made

an inferior offer to the people of his borough? The Seabury probers asked and answered. They found out that Lynch had unloaded a losing newspaper in which he was heavily interested on Gordon, head of the Tompkins bus concern, during the week before the granting of the franchise. Lynch was to shake off all his liabilities and receive a substantial sum in addition. Said Judge Seabury: "An unbiased consideration of the testimony makes it perfectly apparent, in my opinion, that there was an understanding between Borough President Lynch and Gordon, by which Gordon relieved Lynch of an incubus in return for which Lynch agreed to, and did, use his influence in causing a franchise to be delivered to Gordon's company." Lynch is still borough president of Richmond and will vote on the next bus franchise which comes before the Board of Estimate.

The process of getting a pier lease is somewhat more complex but equally common in New York's history. The graft is usually thinly disguised as a legal fee so that prosecution is difficult, particularly since there are several steps in the process at which a pseudo-lawyer may intervene. The Tammany technique was revealed in the case of Judge W. Bernard Vause.

Federal Attorney Charles H. Tuttle was investigating a wildcat concern called the Columbia Finance Corporation in 1929—in those days there appeared to be a distinct line between wildcat and legitimate finance corporations —when he chanced to examine the bank records of W. Bernard Vause, Brooklyn county judge. He was aston-

ished to find a series of checks from the United American Lines, Inc., some of them as high as $25,000. He probed deeper and discovered that Vause had participated in a $250,000 deal for three pier leases, having been "retained" by several shipping companies to get pier leases from the Sinking Fund Commission, a New York City department. He convicted Vause for using the mails to defraud and sent him to a federal prison under a six-year sentence, but the mystery of those pier leases has never been explained. Vause was not the attorney of record in the pier cases and he never appeared before the Sinking Fund Commission which granted the pier leases. But he received $60,000 in fees after the leases were granted. Tuttle could not probe the Sinking Fund Commission and the Dock Department because he had no power to do so as a federal attorney. He could only refer the whole question of the $250,000 "slush fund" to the aged and worried Tammany prosecutor, Thomas C. T. Crain.

Crain, who is a pastmaster at futile gestures, launched his "investigation" by writing Judge Vause a letter demanding an accounting of his fees, which letter went into the wastebasket unanswered. Mayor Walker solemnly announced that his Commissioner of Accounts, James A. Higgins, would make an investigation of the Vause pier-lease deal. If the investigation was ever made the public has not heard the results. This man Vause, incidentally, had made a speech to a Brooklyn grand jury in December, 1926, urging it not to show any Yuletide leniency to criminals.

This Vause pier-lease scandal was one of the most perfect illustrations of the Tammany method of sidetracking an investigation. Because the mayor is the mayor he is given a newspaper headline every time he announces that an "investigation" will be made of some scandal in his administration. The public indignation dies down pending the outcome of the investigation, and months later every one has forgotten that no result of the investigation was ever announced.

Pier leases in New York have been a scandal for a generation. It is universally believed in shipping circles that fortunes must be sunk in political fees to get a favorable lease for ocean-going steamships on the New York waterfront, and during the Seabury investigation this belief was confirmed. No less a personage than Charles F. Murphy himself saw the possibilities in dock leasing as a middleman. The *New York World* of October 1, 1905, described the budding pier lease racket of those days:

The complete inside history of the New York Dock Department under Tammany Hall . . . is a record which out-Tweeds Tweed . . . the dock privilege allotted to Tammany Hall and the tools of Tammany Hall, if rented out at their true value, would pay interest on the bonds and the allotment toward the sinking fund twice over.

This astounding system in dock contracts was organized by Charles F. Murphy, the present leader of Tammany Hall. . . . The present graft system may be said to have begun under the supervision of Murphy himself when Dock Commissioner under Mayor Van Wyck. . . .

During Mr. Murphy's short career as leader of Tammany Hall his contracting firm has acquired, mainly through

manipulation of the Dock Department, contracts aggregating $30,000,000. . . .

It is not at all peculiar that the largest contracts awarded to the Murphy firm are companies which have too much at stake to risk a clash with Tammany Hall. . . . Any work they might contemplate could be hampered in numberless ways. Permits could be refused or delayed, or issued with costly restrictions. . . . The contractors, if not of Tammany Hall, could be harried by the Building Department and the Bureau of Encumbrances and a dozen petty Tammany officials. . . .[7]

Denis Tilden Lynch in an article in the *Herald Tribune* has pointed out that even during the war the political dummies who acted as lessees of city piers under the Tammany system charged the steamship companies from two to five times as much as they paid the city for them. General William Black, Chief of Engineers of the U. S. Army in 1920, gave certain startling illustrations of the profits in this pier racket as follows:

Price Per Day Paid to the City by Lessee	*Price Per Day Charged by Lessee to Steamship Company*
$66.67	$250
53.90	350
57.47	250
34.45	225
53.47	500

Now, all this material was available as a background for a real investigation of pier leases in 1930 when Charles H. Tuttle asked District Attorney Crain to probe the situation. Mr. Crain found nothing worthy of comment

although the same information was accessible to him that was later unearthed by Judge Seabury. When the City Affairs Committee used this negligence as an argument against Mayor Walker in its charges before Governor Roosevelt in 1931, the mayor brushed the argument aside by saying that even Republican Tuttle had failed to find evidence against any member of the Dock Department! Precisely! Tuttle was a federal attorney and could not investigate the Dock Department. He could only prosecute individuals for violation of federal law such as for using the mails to defraud or evading the income tax.

The charter says that applicants for a pier lease must apply first to the dock commissioner and then to the commissioners of the Sinking Fund. These are all political personages, outside of the civil service, and usually the dock commissioner is a district leader and member of the inner ring of Tammany Hall. In recent years the law in granting pier leases has been carelessly disregarded and the real control over leases exercised by the mayor. The North German Lloyd Steamship Company discovered how difficult it was to penetrate the Tammany breastworks in the fight to secure a pier lease. This lease was of immense importance to the company because it had been compelled to dock its great passenger liners in New Jersey and Brooklyn. The company's officials mournfully remarked on the witness stand before Seabury that in no other part of the world where they did business was it necessary to use circumlocutions and influence in the perfectly simple business of getting a place to dock a boat. In New York it

was different. New York was unique in a number of ways.

The company, being told that direct approach was a waste of time, approached David Maier, ex-convict and friend of Mayor Walker, to get a lease on a new pier not yet completed. Maier told the officials at first that it would cost them perhaps $3,000 to get a lease, and later he said perhaps $10,000. Then the suggested price was shoved up to $25,000, and Maier said the one way to get the lease was to hire an eminent Tammany lawyer, William H. Hickin, who has since been elected president of the National Democratic Club. Hickin was hired, and after years of jockeying and manipulation, he was paid a "fee" of $50,000 with the understanding that all except $20,000 was to be passed on to others. Hickin refused to waive immunity before Judge Seabury. He refused to give the names of the persons to whom he passed on his winnings. The bank records, however, show that he drew out $45,000 of the $50,000 in cash a few days after he received the North German Lloyd check, and that shortly afterwards he was without any substantial funds.

How Tammany Hall operates in these pier-lease cases was indicated by one letter from the Lloyd lawyer to his home office. David Maier, he said, "gave these assurances in the most positive manner, saying this is a reward due and promised him for thirty years of service, and that nobody can take it from him. He states that his position with the new leader is very good." [8] This Maier is the gentleman whose presence on the boat with Mayor Walker

on a trip to Europe caused so much stir. When the company finally got the lease, it wrote Mayor Walker a warm letter of thanks, but a slight mistake was made in sending this letter. It was mailed about two months before the commissioners of the Sinking Fund actually granted the lease.

This pier that the North German Lloyd Line finally leased proved to be a great source of riches for both Tammany and some Republicans. Olvany was aware of it and so was Colonel Edward C. Carrington, the Republican candidate for borough president of Manhattan in 1931. In fact Carrington's company, the Hudson River Navigation Corporation, owned the pier site on which the new pier was built and he hired Olvany's law firm to get as high a price as possible for it from the city. He asked the city to pay him $3,177,000 for a pier and site assessed at $633,000. The city finally paid two millions. Just why he asked such a large amount became apparent when it was revealed that heavy demands were made upon him. He had to pay Olvany, and he was asked to pay Dock Commissioner Cosgrove for the commissioner's approval of the purchase. Two good things came out of this scandal almost immediately. Colonel Carrington as a candidate for public office was thoroughly discredited, and the city got the pier site for half a million dollars less than the price set by the dock commissioner in the reign of Olvany.

At one moment in his inquiry Judge Seabury seemed to be just on the point of disclosing the real inside story of

New York's pier racket. F. Traugott Keller, chief engineer of the Dock Department, admitted splitting fees in a private hearing after it was disclosed that he had large, unexplained bank accounts. He was to come back the next day for further examination. He died that day in front of a subway train. No one would testify that he was murdered. Perhaps he was not.

4

MORE TIN BOXES

THE high points of comedy in the examination of the Tin Box Brigade by Judge Seabury came with the appearance of James A. McQuade, now sheriff of Kings County, and Dr. William H. Walker, brother of the mayor. The testimony of these men both brought to mind that remark of E. L. Godkin, which is quoted by M. R. Werner in his *Tammany Hall:* "The three things a Tammany leader most dreaded were in the ascending order of repulsiveness, the penitentiary, honest industry, and biography."

McQuade deposited $520,000 in the bank in six years although his salary during that period totaled less than $50,000, and he could not remember any other gainful occupation except his political job as register of Kings County. His testimony is worthy of transmission to future generations:

Q. Now it appears, Mr. Register, that in the year 1925, you deposited in the Kings County Trust Company your salary checks for the amount of $9,365.40. That is in accord with your recollection?

A. Yes, sir.

Q. It also appears in that year you deposited in cash, not other checks, there were other checks, too, but deposited in cash $55,833.07; that you deposited other checks in addition

to your salary checks for fourteen odd thousand dollars, and that your total deposits for that year in the Kings County Trust Company amounted to $80,058.41. Now bearing in mind what you have told us about not having any other gainful pursuits than your public office, will you be good enough to tell me where you got the seventy odd thousand dollars in 1925, which you deposited, $55,000 of which was in cash?

A. Money that I borrowed. If you want me to get to the start of it, I will have to take and go over the family in its entirety, without feeling that I am humiliated in the least or am not humiliating the other 33 McQuades. If this Committee can take the time, it can take the time to listen, and you can, and the public in general, I will go over it from the start.

I unfortunately went into politics. I say that cautiously.

Q. You don't base that on that deposit, do you?

A. I am going to get to that deposit, if you will let me. If you will let me. I bailed a man out who stole off McQuade Brothers $260,000, which necessitated the folding up of the McQuade Bros. firm, selling eight seats they had in the Exchange for $6,000 a piece, that afterwards brought $225,000. After they liquidated, the 34 McQuades were placed on my back, I being the only breadwinner, so to speak, and after that it was necessary to keep life in their body, sustenance, to go out and borrow money.

After they paid up all they could, I took over their responsibilities. It was not necessary; I felt it my duty, being that they were my flesh and blood, part and parcel of me, to help them. I am getting along in fairly good shape, when my mother, Lord have mercy on her, in 1925 dropped dead. I am going along nicely, when my brother, Lord have mercy on him, in 1926 or 1927 dropped dead. But doing nicely when I have two other brothers, and when my brother died he willed me his family, which I am still taking care of, thank God. Two other brothers, who have been very sick, and are sick, so much so that when your Committee notified me, I was waiting for one of them to die.

They have 24 children that I am trying to keep fed, clothed and educated, which means that I must borrow money. The extra money that you see in this year or any year from that year on has been money that I borrowed,—not ashamed of it—

Q. Now, Mr. Register,—

A. If the Lord lets me live, I intend to pay it all. And I borrowed more in 1926, 1927, 1928 and 1929, and in the last month alone, I think, I borrowed $10,000 to keep the roof over their homes.

Q. Well, now, Mr. Register, will you be good enough to indicate from whom you borrowed this money?

A. Oh, Judge, offhand I could not. I borrowed, which you ought to remember. I was introduced to you, Judge, in the Pennsylvania Railroad depot by the late Judge McCall, who said to you at that time, "This is my friend, Jim McQuade, Judge Seabury, and he is in need, and I am going to help him." I don't know whether you remember or not.

Q. I am sorry; I don't recall it, Mr. Register.

A. I was standing right beside you, and the Judge asked me if I would ride down with him, and I told him I couldn't. The next day he gave me $5,000. That was the start of my trying to keep the McQuade family together.

Q. Well, now, Mr. McQuade, you understand, I take it, that you were accorded a full opportunity to make any statement that you wanted to make in private, and that you declined. You understand that, don't you?

A. Yes. I haven't the faintest idea what it was. I am not ashamed of anything that I am testifying here.

Q. Now, you have told us this story, which from your version of it, shows the great charity and benevolence that actuated you in reference to the members of the McQuade family, to whom you have made reference. That all relates, as I understand it, to money that you paid out from time to time?

A. That is right.

Q. Doesn't it?

A. You see, in these deposits, Judge—

Q. Doesn't it relate to money that you paid out?

A. From time to time for them.

Q. Well now, my question, Mr. Register, I wasn't interested at all in what you did with the money. I am quite ready to assume that you made charitable and benevolent dispositions of the money. Let us assume that, for the sake of argument. My question is: How, in the year 1925, with your salary of $9,365.40, you deposited $80,000-odd?

A. I would, for instance, borrow $1,000 off John Brown. In two weeks' time John wanted that $1,000, and I would borrow $1,000 off John Jones. Another, maybe two weeks or less, he would want that. I would get it off John Smith, where in reality there would be possibly $10,000 deposited for the $1,000 that was actually working.

Q. I see—just over and over again using the same $1,000?

A. That is it, trying to keep my—

Q. Can you give the names of the persons from whom you borrowed this money that brought your total deposits of that year up to $80,000?

A. I can't, offhand, Judge, remember that far back. I had troubles enough to—

Q. Have you any data or writing that will enable you to designate the persons from whom you borrowed these sums?

A. As the money was paid, it was off my mind, and I thanked God for it and destroyed anything that I might have.

Q. Destroyed everything you might have?

A. After I paid it, it was no good to me.

Q. Why do you give thanks to Divine Providence?

A. I give thanks to Divine Providence for permitting me to pay those people who were kind enough to loan me the money.[1]

After this colloquy an enterprising reporter from the *Sun* got on a street car and went out into the farther reaches of Brooklyn to discover how well McQuade was feeding his 33 destitute relatives. He found a number of

them on the city payroll, being very comfortably taken care of by the taxpayers. He found among the 33 relatives rotund and prosperous real estate owners in Queens who seemed quite superior to the good sheriff's kindness. But all of this did not threaten Mr. McQuade's chances for election as sheriff of Kings County, since he had already been designated for the office by McCooey before he testified and nothing less than an earthquake could defeat a McCooey choice in McCooeyville.

The case of Dr. William H. Walker, the mayor's brother, is almost as striking. Dr. Walker is a pudgy, rather forlorn-looking person whom it is hard to associate with his dashing, voluble brother. He is not a member of the American Medical Association or the New York Academy of Medicine. When he was first made medical examiner of the Board of Education, the Civil Service Reform Association contested his choice in the courts on the ground that he had not passed a required examination for the place. He was finally allowed to stay because of a technicality and he draws from this position $6,500 a year. He is also a member of the Board of Retirement for city pensions from which he receives $25 per meeting, and an examiner of pugilists under the jurisdiction of the State Boxing Commission, for which he receives $50 a performance, perhaps 50 times a year.

Dr. Walker's main source of income, however, is not official. It consists chiefly of fees split with four doctors who treat city employees for injuries. To understand the proceeding it will be necessary to explain just how the

compensation racket works in the practice of medicine in New York.

When a worker is injured in the performance of duty the State Workmen's Compensation Law makes the employer responsible for medical care but it gives the employer the right to designate the doctor. This gives an opportunity for collusion between crooked doctors and employers in exploiting the insurance companies who must pay the bills. Racketeering doctors may render fake bills with the consent of the employer and they may compensate the employer for his coöperation by incorporating in their bills names of employees who never existed and so make it possible for the employer to be paid for medical attention to a ghost. More commonly inferior clinics are run in connection with insurance companies which are interested in minimizing illness and giving cheap treatment to injured workers.

In the case of the city the system gives Tammany a chance to send the city's injured employees to doctors who will split fees with the political ring. Judge Seabury discovered that four doctors had almost a monopoly of compensation cases of city employees and that during 37 months, from January 1, 1929, to January 31, 1932, they received $216,000. Direct evidence was introduced to show that in scores of cases these fees were split with Dr. Walker on a 50-50 basis to the odd penny. No check was made by the corporation counsel who appointed these doctors to see whether the services which the city paid for were actually rendered, or if the treatments given were necessary and reasonable.[2]

When Dr. Walker appeared on the witness stand before Seabury he was frightened and nervous. He gave the most pathetic exhibition of "truth telling" in the entire inquiry. His combined bank accounts with the four doctors, it appeared had totaled $431,000 from 1928 to 1932, an astonishing harvest for a man wholly unknown in the upper world of medicine.[8] His explanations of checks he had received from Dr. Thomas J. O'Mara, one of the four city compensation doctors, was still more astonishing.

He admitted receiving about $10,000 to $12,000 a year from Dr. T. J. O'Mara in split fees but he denied that these split fees came from city compensation cases. He argued that they came from other compensation cases which he shared with Dr. O'Mara and he swore that he himself had never done any work on city compensation cases. This was important because if he had done any paid service directly for a city patient the doctor who split city fees with him could be charged with misappropriating public funds. To save both himself and Dr. O'Mara he had to pretend that the money received from Dr. O'Mara had nothing to do with city funds, and at the same time he had to concoct an elaborate yarn about the extensive coöperation between himself and O'Mara to explain these mysterious checks. How he faced the music is revealed by the testimony:

Q. Now, are you willing to swear that these fees that for the last five years of Dr. O'Mara's that he has split with you were not, any of them, in relation to city compensation cases?

A. They were not.

Q. You are willing to say that they were not?

A. Yes.

Q. Doctor, I show you a check or warrant from the city payable to the order of Thomas J. O'Mara. That is the Dr. O'Mara with whom you have split some fees?

A. Yes.

Q. Here is a warrant or check for $233.20 and here is another one for $1,269. Will you be good enough to look at them and note their date is on March 3, 1931? March 3 and 4, 1931?

A. Yes.

Q. That is right, isn't it?

A. Yes.

Q. Now, will you be good enough to look at this check that I hand you and tell me whether it bears Dr. O'Mara's signature?

A. It does.

Q. And whether it is made payable to your own order?

A. It is. . . .

Q. You observe that that is just one-half, isn't it, of the amount of the warrants paid to Dr. O'Mara in those city compensation cases?

A. I presume so. I haven't added it up. I take your word for it.

Q. Doesn't the date of the check serve to refresh your recollection that when Dr. O'Mara got those checks for city compensation cases he deposited them in his bank and drew a check to your order for one-half of the amount? Doesn't it refresh your recollection, Doctor?

A. I haven't any recollection of it, but the check speaks for itself, that I received it. . . .

Q. Now, you see, Dr. O'Mara got $1,502.20 and on the next day I think O'Mara sends you a check for $751.10, just one-half of that amount. Now does not that, Doctor, serve to refresh your recollection that at least in cases represented by these two checks from the city to Dr. O'Mara

under date of March 3 and 4 for city compensation cases that Dr. O'Mara did split his fee 50-50 with you?

A. I never knew anything about the doctor receiving those other checks.

Q. Can you tell me any other reason why Dr. O'Mara should have sent you exactly one-half of the amount that he received in compensation cases one day after he received the checks from the city?

A. No, I don't.

Q. What was it for, Doctor, if it was not a division and split of this commission?

A. It was for medical work that I performed for him.

Q. But not medical work in reference to compensation cases?

A. Not city compensation cases.

Q. You still stick to that?

A. Yes. . . .

Q. Now, Doctor, you say this check for $751.10 was for some medical services that you rendered?

A. Yes, sir.

Q. Did you ever send any bill to anybody for those services you say you rendered?

A. No, I depend upon Dr. O'Mara's records entirely.

Q. You still say it was not a split on city cases?

A. Yes, sir. . . .

Q. Now, I show you another check to Dr. O'Mara from the city for $436.45 under date of June 27, 1931, services compensation law. Do you notice that?

A. Yes.

Q. Did Dr. O'Mara give you half of that payment to him?

A. I haven't any recollection of it. I never knew Dr. O'Mara received that check.

Q. What date did he receive that check?

A. The check is dated June 27, 1931.

Q. Now I show you a check by him to your order on

July 1, 1931, for $218.23, and tell me whether that serves to refresh your recollection that Dr. O'Mara did split that fee with you even to the extent of giving you that half cent, you will observe?

A. I haven't any recollection of it.

Q. Well, if it wasn't a split of Dr. O'Mara's fee, what was it, Dr. Walker?

A. It was the same as the other, the same as the other check.

Q. You couldn't give me any explanation for the other except to say it was medical services?

A. Well, I will say the same thing again.

Q. Did you render any bill for these services?

A. No.

Q. Don't you think that, perhaps, Doctor, you may be in error and that really you did split these city compensation fees with Dr. O'Mara?

A. No, sir. . . .

Q. Now, Doctor, will you please look at this next check I hand you, under date of August 5, 1931, for services rendered by Dr. O'Mara, and paid for by the city under the compensation law, for $407.30. . . .

Q. And this check, under date of August 6, 1931, for $162.40 to O'Mara, in a compensation case. Do you note it?

A. I do.

Q. And this check of August 6, 1931, for $181.75 to Dr. O'Mara in a compensation case—you note it?

A. I note it.

Q. This one under date of August 6, 1931, to Dr. O'Mara in a compensation case for $196.80.

A. Yes.

Q. And this one under date of August 6, 1931, to Dr. O'Mara from the city in a compensation case for $194.15?

A. Yes.

Q. You observe those checks—seven of them, are there not?

A. Yes.

Q. Doctor, I show you another check under date of August 6, 1931, to Dr. O'Mara from the city in a compensation case for $237.20.

A. Yes.

Q. You note that, do you not?

A. Yes. . . .

Q. All right; so that we have seven checks between those dates to Dr. O'Mara in city compensation cases, aggregating $1,382.62. On August 12th, didn't you receive a check that I hand you from Dr. O'Mara for $691.30?

A. I presume I did—the check is cashed.

Q. That doesn't rest on presumption, does it? That rests on the firm foundation of knowledge?

A. Yes.

Q. Wasn't that half of those seven checks that Dr. O'Mara got from the city in compensation cases?

A. I will take your figures for that.

Q. I don't mean, isn't it half of that amount; I mean to ask whether that $691.30 wasn't the split that Dr. O'Mara made with you in the cases referred to on those checks of warrants from the city?

A. He gave that check for services I rendered.

Q. Services in reference to these cases?

A. These cases I didn't know anything about.

Q. What cases did you render services for, for which you got this check?

A. Any cases he asked me to look at.

Q. Have you got any record to show what those cases were?

A. I haven't now.

Q. Did you ever have any?

A. At the time he was giving me—

Q. Didn't you keep any record yourself?

A. No, he kept track.

Q. You didn't keep any record?

A. No.

Q. (Continued) of the amount he owed you?

A. No.

Q. He paid you thousands of dollars altogether, didn't he?

A. Yes.

Q. You kept no record of the cases in reference to which that money was paid?

A. No.

. . . . . .

Q. . . . doesn't it seem strange to you that in these particular city compensation cases you received exactly one-half, even to the odd number of dollars and the odd number of cents—doesn't that seem very strange?

A. I didn't even know it was so until now.

Q. Now that you do know it is so, doesn't it seem very strange to you?

A. It is evidently a coincidence.

Q. It's a coincidence. And doesn't it seem very strange, too, that the coincidence happened in so many separate series of cases?

A. Yes.[3]

When the City Affairs Committee took the evidence produced before the Hofstadter committee and made it the basis of charges against Dr. William H. Walker and his four associates, before the Grievance Committee of the State Department of Education, the learned but cautious doctors who make up that body announced that fee-splitting was unethical but that they could do nothing against it unless fraud and deceit had been revealed. The complainant in the case (one of the authors) declared that he did not wish to "make a solitary victim of Dr. Walker. He is a symptom and a sample of a great medical racket. It would be as silly to remove him without getting at the

racket as it would be to sew up a wound with proud flesh underneath."

So the case rests as this book goes to press. The Tammany forces are using all their power to protect Dr. Walker and to prevent a thorough investigation. The chances of revoking the licenses of these fee-splitting doctors is remote because Tammany has powerful friends among the doctors and powerful pleaders to present a distorted interpretation of the law to machine-made courts. Morally the case against Dr. Walker is complete—he took what an honest citizen would call graft. But if one member of the Grievance Committee of the Board of Regents is under Tammany control Dr. Walker's license will never be revoked. The revocation of a doctor's license by the Grievance Committee requires a unanimous vote.

Dr. Walker is still in the employ of the Board of Education to-day. Which leads us to discuss for a moment how politics takes the tin boxes even into our school system. The schools have at their head over one hundred superintendents, principals and directors of special branches who receive about $10,000 a year and who take either a perfunctory examination or none at all. The open sesame to all of these positions is the recommendation of a major political leader.

It is easy to imagine the effect of such a system upon the morale of the pupils, teachers and officials of New York's schools. Dr. Henry R. Linville of the Teachers Union has summed up the results.

In the first place only those teachers who are able to

command political influence are regarded by their fellows as being in line for appointment to the prize positions. In the second place, the necessity of having political connections for educational advancement leads teachers to join Democratic clubs, and even to give up old religious affiliations for others of more practical value. This tendency is obviously demoralizing to the integrity of character of ambitious teachers and to the profession as a whole. In the third place, education itself becomes bound hand and foot to the system of politico-economic racketeering that is characteristic of practical government and business in New York City.

Public education in New York City is an enormously expensive institution. But even so, it is conceivable that much greater expenditures than the $150,000,000 required to conduct the schools of New York each year would be made available willingly by the people if the school system contributed substantial results in improved civic and social leadership, or in a recognizable improvement in the intelligence and social good will of the young people who graduate from the schools. In spite of the good intentions of many teachers to create a better citizenship through education, it is known by all young people that Tammany Hall stands for real and immediate success, and will help any smart young fellow to get what he wants. The result is that an attitude of cynicism toward the teachings of good teachers or good schools is one of the commonest of attitudes among the adolescent school children of New York.

By virtue of the situation the officials of the New York public school system are in no position even now to condemn, or to refer in a deprecatory manner, to the conduct of ex-Mayor Walker while he was in office. The present superintendent of schools is fond of telling how much he owes to the friendly interest of "Johnny" Ahearn but the record shows that some twenty years ago Ahearn was removed by Governor Hughes from the office of president of the Borough of Manhattan for incompetence and for failure to protect the interests of the people.

Quite as shocking as any revelations of the Tin Box Brigade made by Judge Seabury was the self-revelation of Tammany by the Democratic members of the Hofstadter committee. Assemblyman Louis Cuvillier, looking like an aged gargoyle, sat to the left of Chairman Hofstadter during the entire inquiry and fought Judge Seabury like a counsel for the defense. No interjection was too irrelevant or stupid for him to make. On many occasions he sought to put such fantastic explanations and excuses into the mouths of witnesses that they recoiled and asked the privilege of making their own excuses.

Judge Seabury was wholly justified in saying at the end of his Intermediate Report:

From the start Tammany Hall has done everything within its power to obstruct and interfere with the exposure of the conditions brought out in the testimony. There can be no question about the participation of Tammany Hall in the legal proceedings which have been taken in the attempt of some of the witnesses to avoid interrogation. Curry's action

in springing to the defense of Dr. Doyle, as well as his subsequent testimony, establish it. Not a single one of the miscreants has been repudiated by Tammany Hall, or even criticized by it, for the official wrong-doing which has been shown; on the contrary, Tammany Hall has taken these wrong-doers to its bosom, has lent them all the aid and comfort that it could and has acted as their protector and advisor throughout.

It is perfectly apparent that what these men did is part of the system upon which Tammany Hall exists and expands; that Tammany Hall approves it and is ready to extend its arm to the utmost to protect and perpetuate its sordid traffic in political influence.

5

GANG RULE AT ELECTIONS

In a democracy the mandate of a government is derived from voters at duly constituted elections. New York never has an approximately honest election. The degrees of dishonesty vary from year to year with varying circumstances. These circumstances include such matters as Tammany's desire to roll up an impressive vote and the Republican desire to make a real fight. However, Tammany always keeps its hand in at a little cheating even when it is wholly unnecessary for victory, and Republican desire for victory is never so strong that the party can or will prevent collusion between nominally Republican and Democratic election inspectors in certain assembly districts. Such collusion is, of course, the chief root of fraud.

This matter of elections in New York—and we do not believe that New York is a sinner above all other cities—is worth some consideration. It was one of the gravest weaknesses of the Seabury investigation of 1931-1932 that it wholly ignored the question despite the fact that specific and detailed grievances were laid before it. In consequence Judge Seabury was in the position of investigating the dishonesty of a Tammany administration whose man-

date is habitually vitiated by fraud in the elections, which fraud he and his associates did not even consider.

One member of the Hofstadter Committee, Assemblyman Hamilton Potter of Suffolk County, was genuinely concerned over the situation, and at one time contemplated definite action by the legislature. Almost nothing came of this, presumably because of the old familiar fear of up-state Republican legislators that they live in houses of quite too brittle glass for them to start throwing stones. A legislative committee did make hurried inquiry into the laws recently and spent two days on hearings in New York which were neglected by all but Socialists.

The trouble with New York elections would not seem to one reading the election laws to rest with the laws themselves. On the surface they seem ample and adequate, but their interpretation by the courts has left them full of loopholes especially in the matter of possible colonization. So, too, do the voting machines, now in general use throughout the city, seem well designed to reduce the chance of accidental or deliberate error in the count. The merits of voting machines were impressed on reformers by Tammany's long opposition to their use. It is true that since their adoption the all-night counts with their chance for honest error and for all sorts of dishonest tricks, including violence, have been eliminated. Nevertheless, Tammany has proved that man is mightier than any impersonal machine.

The chief weakness of the voting machine from a mechanical point of view is the fact that in its present

legal form it does not, like a cash register, print its totals. They appear on the back of the machine in rather small-sized figures. While the law provides that the machine must be opened and so turned that the face on which totals are recorded is plainly visible to all election inspectors and properly certified watchers of all political parties, it is an easy law to ignore or evade. Watchers, even of the Republican party in New York City, are often inexpert, easily brow-beaten, and in many districts they either fear or actually experience physical violence if they protest. Besides there are rarely enough watchers for every precinct. That leaves only the Republican inspectors for Tammany to take care of. And that is easy. We have seen precinct after precinct where there have been more Republican officials than Republican votes. We have seen more precincts where the Socialist vote as reported was zero, one, two or three, although we have been able in those same precincts to get small mountains of affidavits of Socialists who swore that in those precincts they voted the ticket.

What happened? The Republican or allegedly Republican inspectors obligingly looked the other way while a Democratic chairman read off the minority party vote and a Democratic secretary recorded it with a substantial subtraction. In 1927 when all Tammany's bag of tricks was used in a certain district to prevent the reëlection of the popular Socialist, Jacob Panken, judge of the municipal court, in one precinct where there was *prima facie* evidence of irregularity the voting machine on court order

was reopened. It showed 35 votes for Judge Panken; other testimony showed that the chairman had called out eleven and the secretary had written down nine, not on the regular form, but on a slip of paper from which later he had expected to transcribe it to the regular form obligingly signed in blank by "Republican" election inspectors who then cleaned out altogether!

Incidentally that good Tammany war horse, Magistrate Simpson, who later resigned under fire, refused even to hold the alleged Republicans for the Grand Jury. That same year in that same district a Republican candidate for municipal court judge openly mourned in Socialist district headquarters that he "hadn't money enough to keep the boys in line." The "boys" were nominally Republican inspectors and watchers who according to general belief were conveniently blind and deaf for the sum of twenty-five good Tammany dollars. (The rate varies according to urgency.)

Against this deliberate misreading of the machine through collusion between the old parties court orders for reopening the machines are no real protection. To obtain such orders is expensive, cumbersome and requires an amount of *prima facie* evidence of fraud not worth the cost and trouble of collecting.

But where, you may ask, are the police? Hand in glove with the Tammany-Republican machine. Even a decent cop regards it as a mortal danger to his job to interfere on his own initiative, or even at the request of a minor party watcher, with any irregularity at the polls short of

murder. With rare exceptions the New York cop at an election precinct takes the monkeys of Nikko as his example. He hears, sees, speaks no evil. No, not quite. We have known some specimens who if an honest, non-Tammany man is attacked at the polls will always see him in the rôle of aggressor and grab him, intimidate him, or actually arrest him. Meanwhile the gangster escapes.

But we are getting a little ahead of our argument. The point about the voting machine is this: if it were so contrived that it printed in duplicate or triplicate the final result and these copies were properly filed it would at least be much harder than it now is to misread, misreport or doctor the record. That is what reformers never thought of when the machine was introduced.

Another serious point about the machine is its adaptability or lack of adaptability to proportional representation. At any rate the history of voting by a mechanical process is one more proof that we cannot be saved by law or machinery if we lack the will or power to organize for our own protection. Some weary hours, some two A.M. battles, knavery and physical violence, some ballot fixing, the machine prevents. With the addition of automatic printing of results the area of its protection might be extended. More cannot be said for it.

Tammany's best means of gathering in votes at the expense of its political opponents is not misreading the voting machines but sheer intimidation on election day. In this process of intimidation gangsters, racketeers, judges and avowed political workers make common cause. Yes,

and school teachers. In one experience one of the most persistent violators of the law against lobbying near the polls was a Tammany school teacher who used her acquaintance and influence with parents openly and successfully all day long in the polling places in the basement of the school where she taught. We have seen in a big school basement a crowd of lingering visitors or hangers-on, including in the same group a judge, a district leader, an assemblyman and a well-known local gangster, all united in bonds of amity, each in his way impressing the voters with the manysided might of Tammany and the wisdom of doing its bidding. We have been graciously offered personal immunity as a favor by a typical Tammany alderman in a polling place, in which the same alderman had been inciting some of his followers to violence against a Socialist watcher. The crowd in that polling place could have had its composite picture taken for the kind of men who loot cities. The worst of them proudly wore party badges. Ordinary citizens, as a passer-by explained, believed "an honest man hasn't a chance. Dutch Schultz's men are operating in this district to-day." (Schultz is a notorious beer runner and racketeer.)

There is a certain degree of respect for persons in the administration of physical violence. In such assembly districts as the 2nd, 4th, 17th in Manhattan—to name only three—a Socialist candidate for high office is relatively secure from personal attack if he visits the polling places; the ordinary watcher is far less safe. There have even been instances where prominent Republicans have suffered

the indignity of the "bum's rush" out of a polling place. And one of the authors of this book can testify that such immunity as he has enjoyed has not extended to his companions or to the tires of his car.

We suspect that the fighting Congressman La Guardia will agree with Socialists that the one thing Tammany fears is a counter organization, known to include a number of well-set-up young men, residents in the same neighborhood as the election inspectors. Short of that, well-trained watchers can do much. So, too, can temporary deputies to the attorney general appointed by him to watch the polls—that is, if the attorney general is Republican. In 1931 the Democratic attorney general appointed deputies whose purposed or ignorant blindness and misinterpretation of law greatly assisted Tammany in piling up the majority it needed to "vindicate" the Walker administration.

These conditions, we repeat, do not prevail merely in a very few isolated precincts; they are habitual in district after district in the greater city. Well-informed newspaper reporters are cynically aware of them, but editors, like other respectable citizens, usually vote in districts or at hours when nothing out of the way happens. Or else they are so calloused to sensation that nothing matters short of open riot. Hence the standing headline: "All quiet at the polls." And for this—and possibly less creditable reasons—it is next to impossible to get the average New York newspaper genuinely interested in an honest vote.

How does this intimidation work? You live, let us say, in a Democratic district where there are reasons for the leader to make a big showing. You are one of the group not definitely lined up already by fear or favor on the boss's side. Your name is checked to show that fact. If English is your native language and you have reasonable self-assurance and a job out of the boss's reach, you can usually vote your own way, even if that way is Socialist or Communist, unless some one has thoughtfully voted for you first—which sometimes happens. But if your English is poor, you seem bewildered, or financially insecure, what then? Assuming that you have given the Tammany canvasser no assurances, you run a hostile gauntlet as you stand in line at the polls even though that hostility may not result in immediate violence. When you come to the machine you may be offered "assistance" or even have it forced upon you. Assistance is the polite term for the intrusion of a Tammany inspector with you into the actual voting place where he pulls the levers for you. In a great many cases, of course, it is accepted or welcomed by bewildered voters or those desirous of some favor from the boss.

Legally, assistance can be given only to those who at the time of registration ask for it and then only on the ground of certain physical disabilities like blindness. Two inspectors of different parties must then accompany the voter to the machine. In precinct after precinct the law is contemptuously ignored. Reliable Socialist watchers, after vainly protesting, have seen the majority of the voters of a precinct accompanied to the machine by a good

Democratic relative or an inspector or both. Often not even the bluff of a proper entry is made on the election books. We have been jovially assured in some precincts that "the people here are too dumb to vote any other way." The miserably exploited Porto Rican colony in Harlem, mostly Spanish-speaking but entitled to vote, is at present the group for whom "assistance" is the rule rather than the exception. Thus in 1931 in one precinct of the 17th Assembly district 136 voters were marked for "assistance"—75 for bad eyes! 38 were previous voters whose need for assistance was not set forth according to law. For this and other offenses one group of election inspectors in Harlem on Socialist complaint, was mildly disciplined by the Board of Elections after the 1931 election and the chairman of the inspectors faces a criminal indictment in proceedings forced by Socialists in spite of an apathetic district attorney's office. But such action, taken at considerable expense of time and energy in one precinct only, except for its possible exemplary effect, seems a little like bailing out the Hudson with a bucket.

Moreover there is a uniform record of laxity in the courts in enforcing election laws. Thus a woman election inspector, caught red-handed voting the third time, was discharged by a Tammany magistrate on the ground that she was voting for absent loved ones and meant no harm! Even the higher courts for reasons best known to themselves have rendered decisions which hamper the war against colonization or the use of floaters by permitting men to have voting residences which are not where they

really live. There is a good deal of colonization or its equivalent in New York City. It is a favorite Democratic jest that up-state Republicans vote the tombstones. We have actually known one definite case where some one registered and voted on the name of a man dead for at least a year. No one was punished.

Other election tricks include wholesale ringing up of votes near the end of the day on the names of voters who have not appeared to vote for themselves. More common is spying on the voter through holes and cracks, especially if he rejects assistance. Out of many instances of this sort we recall the case of a pushcart peddler who was followed out on the street and warned by a Tammany captain that he could not ply his trade in that district since he had voted for *one* Socialist.

Stories like this, magnified by men's fears in a great, cruel city, have an immense effect in cowing the electorate. Few there are who will go to court to swear to irregularities. They or their friends, they think, are sure to be hurt. They complain, they cry for justice, but it must come to them from on high. Repeatedly we have been asked to work the miracle of making an effective complaint although the men and women who ask it are utterly unwilling even to make affidavits. Before you, critical reader, become too scornful of such weakness, consider just how much of a price in time, delay, possible insult you would pay for carrying through a fight under our endlessly slow and wearisome judicial system in which the prosecuting authorities are all on the side of those who should be

prosecuted. And if to this difficulty you must add possible risk to your job or to your cousin who works in the Hospital Department, just how far would you carry your complaint?

To sum this matter up: the Tammany technique of fear and favor for controlling the electorate emphatically extends to actual voting on election day, and of course, on primary day if opposition makes it necessary. The methods of fraud and intimidation include shipping in alleged voters from another district or city, physical or psychological intimidation at the polling places, actual voting for those voters whose English is imperfect, and deliberate misreading of the voting machine totals. Republican candidates are the victims of such tactics almost as much as minor party candidates, yet this large scale fraud is only possible because of the habitual collusion of the Republican county organizations—such as they are—with their Democratic big brothers. Rarely does the Republican leadership in any county bother to fight for the whole ticket. It bargains for special candidates, and it could not control all its nominal inspectors even if it so desired. Its rewards are what the Democrats give them: some cash and favors, and here and there a judgeship. Why else was Morris Koenig elected judge in New York after a notorious deal with Murphy except that his brother Sam, the Republican leader, was so obliging an ally to Tammany?

The question is often raised whether fraud, intimidation or theft of votes really changes the result of the election. Probably not often in the principal elections, but

there is no way of knowing. In the old days of paper ballots, William Randolph Hearst was probably counted out in his race against McClellan and then enough ballot boxes were conveniently lost to make a recount ineffectual. Socialists in assembly and aldermanic districts have frequently been counted out. Sometimes they have won on recount proceedings. August Claessens in a Harlem assembly district in 1921 was counted out and later seated on recount by a comfortable margin. There is no reason to think conditions have changed for the better.

But Tammany knows that aside from a mere vulgar necessity for winning, its demonstrations of power on election day are immensely significant in keeping its dominion of fear over the electorate. Election fraud and intimidation help in the process of keeping whole districts cowed, apathetic, docile, even grateful as slaves are grateful for small favors. There is no public opinion of any great weight against these election frauds so long as they stop short of riot and murder. Taking the state as a whole Republicans gain as much as Democrats by fraud. Why interfere with each other, especially when unpopular and scarcely respectable minor parties are the chief sufferers? Hence a situation in which even the Seabury investigation ignored election methods altogether. Investigation into them would not particularly have furthered the man-hunt against Walker into which politics and popular psychology virtually forced the inquiry.

Unquestionably the election code could be strengthened. The machines could be improved so that they could print

the results. Something might be gained if election inspectors were civil service appointees. They would at least be more literate and efficient and possibly—though not certainly—they would be less amenable to political orders. A few typical criminal prosecutions might have an exemplary effect. More and better watchers is a good slogan for every minor party. But until new faith in political action, new understanding of its importance and effective organization arouse the working masses out of their apathy, elections will remain approximately as dishonest as they now are.

6

JUSTICES AND THE LAW

WHEN Mayor Walker began his first term in 1926 the rumblings of a great judicial scandal had already begun. Hylan's appointments to the Magistrate's Court had been notoriously bad. Walker proceeded blithely to carry on the tradition by appointing all the political henchmen who were thrust upon him by the district leaders without apology and without the pretense of consulting the bar associations. This obedience to the district leaders was not painful for the mayor. It fitted in quite admirably with the pledge that he had given at the beginning of his administration that he was and would remain an "organization" mayor.

As his administration proceeded and the worst judicial scandals of New York's history were unfolded in the newspapers, the mayor's loyalty and aplomb were unruffled. We do not remember a single occasion during his two administrations when he specifically denounced any judicial crooks or assisted in their exposure. The entire movement for exposure and reform was forced upon the city against Tammany opposition by the Socialists and reformers, by the Republican federal attorney, Charles H. Tuttle, by Fiorello La Guardia, and by the newspapers.

In the face of growing scandals the prosecuting machinery obviously broke down. Feeble "investigations" were started by the feeble District Attorney Crain. The grand jury which inquired into the Magistrate's Court in 1930 reported generalities, and concrete "leads" were not followed up.

In allowing these judicial scandals to develop without more serious efforts at reform, Tammany made a grave mistake. Concerning the courts we Americans still preserve a peculiar kind of sensitiveness. We take our congressmen and our senators with something less than seriousness but we preserve the fiction that the moment a man is elevated to the bench he somehow rises above his political past and acquires a new insight and impartiality. Tammany has profoundly shocked even hard-boiled New York by creating a court system that has gone beyond all the limits of ordinary political manipulation.

One reason for the shock has been the unrealistic education in civics of New York public school children, to which we have already referred. The school textbooks omit all reference to machine control of the courts. Indeed, a pupil in the public schools would imagine, if he did not read the newspapers, that our magistrates were wise and benign citizens chosen for their knowledge and impartiality, that the people actually nominate and elect their judges, and that the judges are removed if they show favoritism.

The truth is, of course, that almost every judge in New York City holds his position by virtue of an initial loyalty

to the Democratic or Republican machine. He may have become an honest and scrupulously fair judge in the process of his development—many of the worst machine judges acquire new stature when their debts have once been paid—but his honesty and fairness seldom have anything to do with his appointment. The *sine qua non* of both appointment and election is party loyalty and service. The magistrates are nominally chosen by the mayor but actually by the Democratic leaders of the districts in which vacancies occur. The Supreme Court judges are chosen by the county political leaders.

Nominally, the judges of the Supreme Court, the Court of General Sessions and the City Court are elected by the people. Judicial conventions are called which go through democratic forms, but these conventions blindly approve any slate prepared by the leaders. The system occasionally permits a man of outstanding ability to become a judge if he is reasonably loyal to his party, but the tendency is to exclude all men of independence and courage. Brilliance in a New York City judge is accidental; conformity, at least at the beginning of his career, is essential.

No finer illustration of the working of the system in the higher courts could be found than the notorious judicial deal in the Second Judicial District (Brooklyn, Queens, etc.) in 1931 by which seven Democratic and five Republican Supreme Court judgeships were bargained for over the political counter like so many sacks of wheat. New judges were needed in this district but the new positions could not be provided for without the support of the

Republican legislature. The district was Democratic, so the Republicans refused to create the new positions unless they were promised some of the judgeships. The deal whereby the leaders named the 12 judges was so realistically described before Judge Seabury by John Theofel, Democratic boss of Queens, that we shall quote from his testimony at some length:

Q. Now, Mr. Theofel, you know that during the last session of the Legislature a law was enacted increasing the number of Justices of the Supreme Court in the Second Judicial District?

A. Yes, sir.

Q. Also increasing the number of County Court Judges, was it not?

A. One judge.

Q. In your county?

A. Yes.

Q. And increasing the number of City Court Judges?

A. Two.

Q. Two. And how about Municipal Court?

A. Two. . . .

Q. All right. Now, you understood that some of those were to go to one county, others to another, didn't you?

A. Yes, sir.

Q. And there was nothing in the law about what county the Justices should come from, was there?

A. No, sir.

Q. If that was to be determined in advance, then it had to be a determination arrived at by the leaders, didn't it?

A. I should imagine so.

Q. Well, now, before this law was enacted, do you remember a meeting in the spring in Brooklyn?

A. Yes, sir.

Q. When was it that you held that meeting—in the early spring?

A. I think it was, Judge.

Q. And before the bill was enacted into law?

A. Yes, sir.

Q. And who was present at that meeting?

A. Mr. McCooey, Mr. Rendt, Mr. Krug, Mr. Rasquin and myself. [County leaders] . . .

Q. And where was that conference held?

A. Mr. McCooey's office.

Q. Was it a private office or a public office?

A. Political office.

Q. Political?

A. It is the building owned by the organization.

Q. By what organization?

A. The Democratic Organization of Kings County.

Q. And who called the conference?

A. Why, I was telephoned and invited down.

Q. That was a conference of all the Democratic leaders in the Second Judicial District?

A. Yes, sir. . . .

Q. Now, taking into account [the] grave perils that resulted from the law's delay, did those who were assembled there arrive at any conclusion as to the method by which they could remedy these grave abuses?

A. The only way to remedy it was to get more Judges.

Q. Well, how could those who were assembled there, every one of them Democrats, get more Judges?

A. I don't know.

Q. They couldn't, could they?

A. Not without the assistance of somebody. . . .

Q. And then did anyone suggest how many more Judges might be provided for?

A. Well, they said, somebody said, or they discussed the matter that it couldn't, that we couldn't get more Judges unless the Republicans put them through.

Q. That is, in the Legislature?

A. Yes, sir. . . .

Q. Well, now, Mr. Theofel, didn't somebody say that the

Republicans wouldn't put it through and create more Judgeships, because if they did, the Democrats would elect them all?

A. I wish they had of put them through, Judge.

Q. Well, they wouldn't, would they?

A. They didn't.

Q. And didn't someone say the reason why they wouldn't was because the Democrats would elect them all?

A. I think the Democrats would have elected the whole twelve.

Q. The whole twelve?

A. Yes, sir.

Q. No matter who they put up or on the ticket?

A. I think so. That is only my opinion. I may be wrong.

Q. At any rate, you statesmen who were there assembled (laughter—gavel). . . .

A. Thank you.

Q. Recognizing the difficulties, were there to devise a method for relief for the Supreme Court calendar, weren't you?

A. Well, we were looking to get more Judges; also to help the calendar.

Q. And was the net result of that conference that it was agreed that the gentlemen who were assembled there representing the Democratic leaders in the Second District, should enter into a deal with the Republican leaders, if they could get a bill through creating more Judges? Was that the understanding in words and effect?

A. Well, I don't know whether they should enter in or the Republican enter in with us. I don't know which it was. . . .

Q. Wasn't that, in substance and effect, the result of this conference of Democratic leaders?

A. Along those lines.

Q. You wouldn't say that my statement of it was inaccurate in any substantial respect, would you?

A. No. . . .

Q. Was the manner in which those places should be allocated to counties after the bill became a law, discussed?

A. Well, they talked about so many for Brooklyn and so many for Queens. I was trying to get as many as I could for Queens.

Q. You, as a loyal Queens leader, wanted as many as you could?

A. I would like to have gotten the whole 12 if I could.

Q. You would have taken the whole 12 (laughter—gavel). You could have used them there, couldn't you?

A. I believe so. . . .

Q. How many did they cut you down to?

A. Three.

Q. That is, they cut your county down to three?

A. Yes.

Q. You had to make provision for the Republicans in that three, didn't you?

A. Well, it is up to me to get away with three Democrats, if I could.

Q. If you could. Well, now, you never expected, if three were to be allocated to Queens County, that you would be able to get away with the whole three?

A. I tried hard enough, Judge, but the Republicans wouldn't let me.

Q. You had to give up one, didn't you?

A. Yes, sir.

Q. And how many did Mr. McCooey want allocated to him?

A. Well, I guess he got five.

Q. Five. Whatever you could get in Queens County, you were to name, and whatever he could get in Kings County, he was to name?

A. Yes, sir.

Q. And he got five in this conference, didn't he?

A. Yes, sir.

Q. Well, now, how much did Rendt get from Richmond?

A. He got one Judge.

Q. One. How was he going to meet his Republican situation? (laughter—gavel). With only one Judge.

A. That was a tough job.

Q. It was a tough job. Well, why didn't they make it thirteen judges and give two to Richmond?

A. I don't know. . . .

Q. Well, now, all this apportionment was determined upon, as I understand it, in the spring of this year, before the bill was enacted into law?

A. Yes, sir.

Q. And was anything said as to how many of the twelve they would have to give the Republicans for passing the legislation?

A. I don't know. I believe it was up to you to get away with as many as you could.

Q. It was up to them to get away with as many as they could?

A. Yes, sir. If I could have got away with the three, I would have grabbed the three for Queens, but as I said, my Republican leader would not stand for it.

Q. No. Well, it was tentatively understood, was it not, that with reasonable skill the Democrats ought to be able to hold seven out of the 12?

A. Well, that was the general opinion.

Q. General opinion. It was not thought fair that they should give the Republicans more than five just for passing the bill?

A. Well, it was a Democratic district, Judge.

Q. Exactly.

A. And the vote would show that if the Republicans passed the legislation without doing business with the Democrats, that the Democrats could go out and nominate 12 Democrats and elect 12.

Q. Therefore there had to be some kind of a gentleman's agreement, didn't there?

A. Yes, sir.

Q. That if the Republicans would create the judgeships

the Democrats would not grab them all but would give five to the Republicans and take seven to themselves?

A. Yes, sir.

Q. And that is the way, in the ordinary course of human events, the thing finally worked out, wasn't it?

A. About the way, yes, sir.

Q. And then it came down to selecting the number that had been allocated to Queens?

A. Yes, sir.

Q. You didn't assume to dictate to Mr. McCooey whom he should select in Kings, did you?

A. No, sir.

Q. And Mr. McCooey did not assume to dictate to you whom you should take in Queens?

A. Well, he didn't dictate.

Q. Well, did he suggest?

A. No.

Q. That was a matter for you to fight out with your Republican colleague, wasn't it?

A. Yes, sir.

Q. And who was the Republican partner in Queens?

A. Mr. Ashmead.

Q. Mr. Ashmead. He represented the Republicans?

A. Yes, sir.

Q. And you represented the Democrats?

A. Yes, sir.

Q. Well, did you gentlemen confer on how many you should get and how many Mr. Ashmead should get and whether or not Mr. Ashmead would endorse your two and whether or not you would endorse his one?

A. Yes, we did. . . .

Q. And as the result of the conference between you and Mr. Ashmead it was understood between you and Mr. Ashmead, was it not, that you should name two Judges in Queens and that he should name one?

A. Yes, but Mr. Ashmead would have taken the two if I would have let him get away with it.

Q. He was perfectly willing to take the two and give you one?

A. Yes, sir.

Q. You wouldn't let him get away with that?

A. Not if I could help it. I tried to get the three.

Q. You tried to get the three but he wouldn't let you get away with that, would he?

A. No, sir.

Q. So that as the result of these meetings between you and Mr. Ashmead it was finally agreed that you should have two and that he should have one?

A. Yes, sir. . . .

Q. You have told us very clearly the arrangement in reference to the Supreme Court Justices. Now, was there any arrangement as to the City Court Justices?

A. Yes, sir.

Q. And you were to get in Queens County how many City Court Justices?

A. Two.

Q. And you were to have one and Ashmead one?

A. Yes, sir.

Q. And was that also the subject matter of your conversations with Ashmead?

A. Yes, sir.

Q. Were there any County Judges created?

A. One.

Q. Who was to get the County Judge?

A. I had one of our Assemblymen introduce that bill, Judge.

Q. You had one of your Assemblymen introduce that bill?

A. Yes, sir. There was only one County Judge.

Q. Wasn't that the subject of negotiations with Mr. Ashmead?

A. Well, I believe Mr. Ashmead was to help us get the legislation through on it.

Q. Well, the legislation did go through and there was

one County Judge additional for Queens created, wasn't there?

A. Yes, sir.

Q. And who was to nominate him?

A. We were, the Democrats.

Q. The Democrats. And was Ashmead to support it?

A. Yes, sir, he agreed to support.

Q. He agreed to. And how many Municipal Court Judges?

A. Two.

Q. And how many of those two Municipal Court Judges were you to get?

A. One.

Q. And how many was Ashmead to get?

A. There was only one more.

Q. He was to get the other?

A. Yes, sir.

Q. And when you got them all together, why, you were both to endorse that ticket, weren't you?

A. Yes, sir.

Q. And that is what you have done, isn't it?

A. Yes, sir. . . .[1]

It was not a surprise after this testimony when one of the prospective candidates for the Supreme Court justiceship allotted to the Republicans in Queens testified that the Republican judge selected was supposed to contribute $5,000 to the county committee's treasury. It is certain, however, that one of the judges involved was not required to pay a cent for his post. He was young John McCooey, Jr., 31 years old, relatively inexperienced and unknown except in his amazing successes before the Board of Standards and Appeals which we have already described. He and his father had reason to feel deeply grateful to Frank-

lin D. Roosevelt who had made the judicial deal possible by signing the bill which created the twelve new judgeships after he had been repeatedly warned by civic leaders that a corrupt bargain was in the making.

For the common man the justice meted out in the lower courts is much more important than that meted out in the Supreme Court. If we include the traffic cases over half a million New Yorkers are arraigned in the Magistrate's Court in a single year, and for most of them this arraignment is their sole contact with the judicial machinery of their city. If they are to develop "faith in American institutions" this is the place to acquire it. If the misfits of a great city are to be redeemed by intelligent social service, this is the social worker's opportunity.

New York has a confusing network of lower courts for criminal and civil cases. Ordinary criminal cases are covered in an ascending order of seriousness by the Magistrate's Court, the Court of Special Sessions and the Court of General Sessions. The Magistrate's Court takes care of cases of drunkenness, vagrancy and disorderly conduct directly, and its three branches, the Children's Court, the Traffic Court, and the Family Court, take care of the minor offenses in these specialized fields. The Court of Special Sessions also handles certain misdemeanor cases which have passed through the Magistrate's Court. Felonies such as murder and arson go to the Court of General Sessions. Outside of Manhattan the county courts function in place of the General Sessions Court. Civil cases involving less

than $1,000 may go to the Municipal Court, and $1,000 to $3,000 to the City Court. In the State Supreme Court suits for any amount may be brought. Estates are cared for by the Surrogate's Court, which is a county institution.

The quality of the judges tends to improve in proportion to the square of the distance from a local Tammany leader. The magistrates are at the bottom, the regular Supreme Court justices a little better, the Appellate Division slightly tainted, and the Court of Appeals subservient only to the congealed traditions of American capitalism. The magistrates and Special Sessions judges are chosen by the mayor, the Appellate Division chosen by the governor from the elected justices of the State Supreme Court, and the other judges elected. The Court of Appeals is the highest state court and to it come the important cases after they have been appealed from a Supreme Court judge to the Appellate Division of a given district.

In all of these courts the pay is good and the term of office is long, sufficiently good and sufficiently long so that every judicial appointment or nomination is fought for vigorously, and, it is said, paid for handsomely in service or campaign contributions. A State Supreme Court justice receives $25,000 a year, $5,000 more than a justice of the United States Supreme Court, and his term is fourteen years. A magistrate receives $12,000 a year for ten years. The chief judge of the Children's Court receives $18,000 a year, $3,000 more than the Vice President of the United States. There is no need of his being a specialist in child welfare and his duties take only a few hours a day. No

further comment is needed as to the quality of these Children's Court judges than to point out that ex-Mayor Hylan was appointed a Children's Court judge when he threatened to become politically embarrassing by cutting in on the Tammany vote after Tammany had decided to discard him. When Hylan was appointed, a New York columnist wrote that the children of Queens would now be tried by their peer!

The thing which makes the Magistrate's Court so important is not only the half million cases which come up before the fifty magistrates each year but the fact that this court is in many cases the portal to higher courts where serious offenses are tried. In 1929 there were 17,000 prisoners arraigned before the magistrates on charges of felonies. A magistrate under political pressure may dismiss an important prisoner after a perfunctory hearing, or he may ruin the career of a poor man who refuses to bow to the local district leader. If the magistrate exercises reasonable caution in following the orders of a district leader, it is almost impossible to prove malfeasance in office.

One magistrate during the height of the 1930 scandals, was quoted as saying: "If I were a political leader called into court to help out a constituent, I would not feel that I was using my political authority to defeat the ends of justice. I would feel as though I were in the position of a military judge advocate in the army, sworn to see that every person brought to court, no matter how incapable of self-help, should have all his deserts whether they were comfortable or uncomfortable for him."

Of course, the district leader does not come into court as a judge advocate but as a political fixer and overlord who is more powerful than the magistrate himself. Grotesquely enough, the leader is quite commonly a clerk or other official in the magistrate's or in some higher court, so that citizens who want justice may go directly to the real seat of authority. Rotund, heavy-footed John Theofel, whose testimony we have just quoted, is chief clerk in the court of Surrogate Hetherington, who was put in office by Theofel and who returned the compliment by promptly whitewashing Theofel after charges were brought against him by the City Affairs Committee.

The scandal of the magistrates' courts of New York is not new; like prosperity under capitalism it is cyclical. In 1908 the Page Commission, appointed by the legislature, investigated the inferior criminal courts of New York and found many of the abuses which still persisted when Judge Seabury made his investigation 22 years later. The Page Commission said: "The ordinary scene in the magistrate's court is one of confusion and utter lack of dignity. . . ." It denounced what would have been called the bail bond racket, if the word racket had then been popularized. Frank Moss, former police commissioner and president of the Society for the Prevention of Crime, said before the Page Commission: "I think there are more anarchists bred in those places (lower criminal courts of New York City) than are made in the meetings of the anarchistic clubs. I think that many a man who in his heart is innocent and who is brought up by the

police unfairly before a court which handles him unfairly, whatever may be the reason, goes out with a feeling of hatred toward the institutions which we desire to sustain." [2]

The present wave of court scandals centered originally about Magistrates Vitale and Ewald, and grew with the disappearance of Justice Crater. Vitale was a magistrate who had the bad fortune to eat a dinner one night in his honor in the midst of a hold-up in which it developed that half a dozen of his fellow diners were rather famous gunmen. Famous but not so quick on the draw as the gunmen who robbed them that night. The incident aroused much comment. La Guardia and a Socialist leader demanded Vitale's removal. The Association of the Bar of the City of New York recommended Vitale's removal after they had discovered that the magistrate had accepted a $19,940 "loan" from the enterprising gambler, Arnold Rothstein, and that his bank deposits contained a mysterious $100,000. Vitale was removed as judge but not disbarred as a lawyer, and to-day he is practicing law merrily. Like many of his associates he has not been disqualified as a lawyer because he was an unfit judge.

The case of Magistrate George F. Ewald attracted even wider attention. Ewald was caught originally in the stout income tax net of Charles H. Tuttle. It was discovered that he or his wife had paid out $10,000 about the time that he became a magistrate, and the discovery created enough of a sensation to cause a special grand jury investigation on order of Governor Roosevelt, with Hiram

C. Todd as special prosecutor. Ewald was indicted for bribery shortly after he had resigned from office and Martin J. Healy, his district leader who was also first deputy commissioner of Plant and Structures, was charged with accepting the bribe. Why should Mrs. Ewald pay $10,000 to Mr. Healy at such an appropriate moment? Mrs. Ewald at first refused to answer on the ground that it might incriminate her, but she finally came forward with the fantastic story that she lent $10,000 to Healy to buy a house on Long Island without keeping any receipt or demanding any security. Mrs. Ewald was relatively poor and Mr. Healy was rich. Mrs. Ewald was not a friend of Healy's, but out of the generosity of a warm heart she advanced the $10,000 and ergo her husband became a magistrate! Two American juries looked that evidence squarely in the face and disagreed! The Ewalds and Healy were finally freed.

A conclusion like this prompts us to speak very harshly of the state of public mind that allows such "explanations" as those advanced by Mrs. Ewald to establish a reasonable doubt in a jury's mind. It also constitutes an indictment of the laws of evidence as developed in our court system. Why should not a jury be allowed to take into account the fact that a person accused of crime refuses to waive immunity when first arraigned? In actual life the ability to tell a straight story concerning one's conduct when first charged with crime is an important indication of innocence, and any delay which permits the building up of a coöperative set of lies should be taken into ac-

count as an indication of guilt. In the courts, however, full time is allowed to build up elaborate evasions and defendants may refuse to testify without prejudice to their case. We see no reason why anyone charged with any crime should be allowed to refuse to testify, least of all a public official or any citizen charged with committing a crime in connection with public life.

The Ewald case was not only a revelation of the breakdown of our jury system in producing convictions, but it brought into the open a whole set of Tammany lawyers who play with the machine on occasion and yet try to maintain their professional respectability. The special grand jury investigating Ewald set out to discover just how common the practice was of paying $10,000 for a judgeship, and who commonly received the money. Naturally it summoned first the real ruler of political Manhattan, John F. Curry, but when Mr. Curry was asked on September 24, 1930, to waive immunity before this grand jury, he stamped furiously from the room and told the host of expectant reporters that he had been "insulted." Whereupon seventeen Tammany district leaders followed their chief and refused to waive immunity.

The nature of the insult to Mr. Curry is rather difficult to understand in view of the known situation in New York courts. Since the magistrates are chosen by district leaders and it is almost universally believed that they pay "campaign contributions" to these leaders in return for their appointments, the question naturally arises: How are the contributions distributed? Does Mr. Curry receive any

of them? What does Mr. Curry consider a fair contribution?

Miss Annie Mathews, noted Tammany worker and co-leader in the 19th district with Martin J. Healy, who was charged with accepting the bribe from Ewald, gave away the Tammany case in a charmingly naïve speech before the League of Women Voters. Wouldn't a judge be a "rotter," she asked, if he got an appointment for the Supreme Court bench from a district leader for 14 years at a salary of $25,000 a year and then just said "Thank you"?

When Mr. Curry could not appreciate the relevance of the grand jury's very pertinent questions about buying judgeships, the heavy artillery of Tammany's legal brigade came to his rescue the next day with an open letter. Eleven of the city's most powerful lawyers, knowing full well that their endorsement would be used to fight any thorough investigation of New York corruption, wrote Mr. Curry that "your attitude and position reflected in a high degree what was becoming to any citizen of dignity and self-respect in the community. . . .You should be commended for defending a right of inestimable value to every citizen." [3] The eleven lawyers were George Gordon Battle, Daniel F. Cohalan, Edward S. Dore, Philip J. Dunn, Terence J. McManus, Jeremiah T. Mahoney, James A. O'Gorman, Max D. Steuer, Leslie J. Tompkins, Samuel Untermyer and Frank P. Walsh.

7

THE SHAME OF THE COURTS

AFTER the Vitale and Ewald cases the public was ready for anything. Seabury in his investigation of the Magistrates' Courts did not disappoint it. He proved point by point the thesis that the rottenness of New York's lower criminal courts was part of an organized spoils system. The one big disappointment about his investigation was its restriction to Manhattan and the Bronx. That destroyed half its usefulness. When the investigation finally came, it included only magistrates' courts although other sections of the New York city courts were just as obviously a part of the Tammany system. It left Brooklyn and Queens magistrates' courts out of the picture although the manipulations of Boss McCooey in Brooklyn and Boss Theofel in Queens had been quite as notorious as the exploits of Boss Curry in Manhattan and Boss Flynn in the Bronx. This restriction of the inquiry was maneuvered by Governor Roosevelt, evidently acting under great pressure from his party machine. He did the least that he could do under the circumstances; asked the Appellate Division in a letter on August 21, 1930, to investigate the Magistrates' Courts of Manhattan and the Bronx. We shall discuss Roosevelt's part in this situation later.

Considering these limitations and the obstacles thrown in his way by Tammany, Judge Seabury's report on the Magistrates' Court was an outstanding document, more remarkable than his later reports in the general city investigation.

His investigation proved three things concerning the magistrates' courts, (1) that they were part of a corrupt spoils system, (2) that certain individual magistrates were sufficiently corrupt or incompetent to be removed, and (3) that a mechanical rearrangement of the lower criminal courts would make them more efficient.

There was nothing new or startling about these conclusions since they had been matters of common knowledge for years among civic workers, but Judge Seabury made them known to the average New Yorker by skillful dramatization. As a result of his inquiry Magistrates Jean Norris and Jesse Silbermann were removed from office by the Appellate Division, Magistrates Francis McQuade, George W. Simpson and Henry M. R. Goodman resigned under fire, 6 police officers were convicted of crime, and 13 resigned or were suspended from the force. Judge Seabury's one important failure in this investigation was the failure to convict any magistrate of actually paying cash for his office. He was unlucky enough to find not a single dying or disappointed judge who was ready to shrive his soul by telling the final truth about his life.

In the absence of such a star stool pigeon some of the magistrates provided effective entertainment by describing the manner of their appointment. Magistrate August

Dreyer found that his law business was failing, so he won promotion in the following manner:

I was a Democrat, and I belonged to the organization about eighteen years. This theatrical practice was going downhill fast, upon the ground that the National Vaudeville Artists started, which was taking care of all differences, which were settled by arbitration by the National Vaudeville Artists. The Equity was started with Mr. Paul Turner there, and they took care of all their differences, so that really what was left in the theatrical business was nothing but to take a divorce suit, and I felt that I did not want to take any divorce suits. I simply went around to my organization at the time, which was the 25th, and I spoke to George Donnellan, who was leader at the time; he is a General Sessions Court judge. I said: "Listen"—he was not a judge at the time—I said: "Listen, George, for eighteen years I never knew what a reference or receivership or guardianship was, never got a 5-cent piece, never held a political office. Here is my position, my practice absolutely gone, the National Vaudeville Artists settle their differences with the Actors' Equity, who settle their differences through Paul Turner, what am I going to do? I think I am entitled to get a judgeship for all I have done for eighteen years, spent my time three times a week, never asked for anything, never bothered about references," I said, "I think I am entitled to some recognition." Well, he says: "I will be honest with you, you are entitled to some recognition. You never annoyed me or bothered me, other lawyers were after me to see what I could get for them." I said: "I think I am entitled to it." [1]

P.S. He got the job.

Although the Inferior Criminal Courts Act specifically forbids a magistrate from engaging in other profession or occupation while he is on the bench, Magistrate McQuade

regarded the act so lightly that he served openly in the management of the New York Giants and even sued the club to reinstate him as treasurer. When about to be confronted with these facts, he resigned, but not before he had contributed this classic of political frankness:

Q. Now, in your own words, Judge, will you state to the Court, just how you came to be appointed Magistrate?

A. Well, I was active around in politics, and so on, and I had the endorsement of Mr. Hyde, who was City Chamberlain at the time, and Senator Sullivan interested himself in me.

Q. Senator who?

A. Sullivan.

Q. Tim Sullivan?

A. Yes, sir.

* * * * * *

Q. Just how did you manage to get this new appointment?

A. Why, I asked Mr. Murphy, who was the head of Tammany Hall, if he saw fit to give me the long term. Of course, I asked him to speak to the Mayor, if he would, at that time Hylan, and he did, and Hylan gave me the long term.[2]

Magistrate Maurice Gottlieb told of his appointment as follows:

Q. Now, will you tell us a little more about the circumstances of your appointment to the bench, Judge? Was the appointment made upon the recommendation of Judge Mahoney or was it merely that he sponsored you through your district leader and through organization circles?

A. Well, I can explain that. I have been a member of Tammany Hall over 40 years. I have lived in Yorkville for

30 odd years. My folks lived in Yorkville for 50 years. I am a member of the Osceola Club for over 20 years. Judge Mahoney—I was very active with Judge Mahoney in helping to elect him leader, that must be 12 or 15 years ago, and I might say that when he became leader I was fairly well known as his right-hand bower. I took care of things politically. I helped get the house that our clubhouse is in. I have done things to help build up our organization in our district. . . . Judge Rittenberg, my predecessor, was very sick. I had known Moe Rittenberg for probably 30 or 35 years. A call came for a man to fill his place, as temporary magistrate. I spoke to Briarly. There seemed to be no logical man for the position but myself. After all, I had spent money, time and help to build up the organization.

In appointing magistrates and in nominating other officials Tammany observes an unwritten law of religious and national allotments. While the leading figures in the Democratic machine are Irish Catholics, the Jews and Protestants must be appeased. Senator Royal S. Copeland is a leading Methodist; District Attorney Crain is an Episcopalian (Tammany has a fondness for Protestant district attorneys); Controller Berry is a Presbyterian; Borough President Samuel Levy of Manhattan is a Jew; Joseph V. McKee, president of the Board of Aldermen, is Catholic, as are Mayor Walker and a host of other leaders. A rough balance of religious and national allotments is maintained in the courts and the other city offices by assigning a Jew to succeed a Jew, a German to succeed a German and so on. When Julius Miller, borough president of Manhattan, was made a Supreme Court judge it was taken for granted that this Jewish leader should have

a Jewish successor if a reasonably able one could be found. Accordingly Samuel Levy, a leading politician in Jewish fraternal orders, took his place and promptly demonstrated his party loyalty by allowing a subordinate to distribute the employment cards from a public city employment office through Tammany clubhouses just before election day. After this event he was elected President of the National Jewish Orthodox Congregations of the United States and Canada.

When Francis X. Mancuso resigned under fire as a judge of the Court of General Sessions because he was caught as a director in the $5,000,000 failure of the City Trust Co., it was taken for granted that another Italian should get his position, so Governor Roosevelt appointed Amadeo A. Bertini who resembled his successor so strikingly that he refused to waive immunity before a grand jury. When Magistrate Jesse Silbermann was being questioned by Judge Seabury in the Magistrates' Court investigation, he calmly admitted that he had been chosen by Mayor Walker because the mayor had "decided to appoint a Hebrew from the Bronx."

The power of the Democratic organization in New York remains as it has for so long remained in the hands of Irish Catholic leaders. Curry, McCooey, and Flynn of Bronx—the big three bosses of New York political life, are all Irish Catholic. Their important district leaders are Irish Catholic. Half of the sachems of Tammany Hall are Irish Catholic—and not one Jewish. That is one reason no doubt, why the Catholic Church in New York has

been so far behind the Protestant churches and synagogues in denouncing civic corruption and why no newspaper in New York ventures to mention this fact editorially for fear of being accused of religious prejudice. We know many good Catholics in New York who resent this civic inertia of their own church very keenly.

The Rev. Edward Lodge Curran, editor of the official organ of the International Catholic Truth Society in a recent pamphlet on "Graft" said: "Tammany is once again under fire and once again the testimony of its operations, wrested from its unwilling witnesses only through fear of perjury, reveals the prevalence of the same plundering and personally profiting attitude toward the administration of city government that has characterized its history since its association with Aaron Burr. . . . The leopard does not change his spots. The excuses of the older grafter were blunt. The excuses of the newer grafter are naïve. The testimony of the older grafter reads like a melodrama. The testimony of the newer grafter reads like a fairy tale."

About the creedal and racial allotment of Tammany in the magistrates' courts Judge Seabury was caustic in his final report. He said:

> Ability and fitness for the office, where they exist, are as a rule, purely accidental. The selection is made primarily to strengthen the power of the party. This explains the principle by which appointments are parcelled out to meet the alleged claims of particular political districts; it also explains the even more vicious principle by which race, nationality and creed often dictate the selection of Magistrates.[3]

In his more general comment on the root of the problem in the Magistrates' Court, Seabury summed up his findings in a striking passage:

The reason why we are no better off today under the Inferior Criminal Courts Act than we were prior to its enactment is that the Inferior Criminal Courts Act left unimpaired and free to flourish the basic vice in the Magistrates' Courts, i.e., their administration as a part of the political spoils system. It left the Magistrates to be appointed by a political agency, the Mayor, upon the recommendation of the district leaders within his political party—and these men, as we know, have regarded the places to be filled as plums to be distributed as rewards for services rendered by faithful party workers. The Courts are directed by these Magistrates in cooperation with the Court clerks, who are not Civil Service employees and who are appointed without the slightest regard to fitness or qualification, but solely through political agencies and because of political influences. The assistant clerks and attendants, though nominally taken from the Civil Service List, are still, in almost all instances, faithful party workers who, despite Civil Service provisions, have secured their places through political influence as a recompense for services performed for the party. The insidious auspices under which the Magistrates, the clerks, the assistant clerks and the attendants are appointed are bad enough; the conditions under which they retain their appointments are infinitely worse, because they involve the subserviency in office to district leaders and other politicians. It is a byword in the corridors of the Magistrates' Courts of the City of New York that the intervention of a friend in the district political club is much more potent in the disposition of cases than the merits of the cause or the services of the best lawyer and, unfortunately, the truth of the statement alone prevents it from being a slander upon the good name of the City.

To which may be added this further indictment, that behind the Tammany system of appointing judges on the basis of political favoritism lies the economic system which makes the profession of law parasitic. In a profit economy where the great fortunes are paid to manipulators and owners the lawyer who wishes to make money gravitates toward the upper reaches of big business. He becomes a servant of a great corporation and spends most of his time and energy defending one property interest against another property interest. If he enters the field of criminal law he soon adopts the principle that he will charge his customers all that the traffic will bear. That is the principle of the business system in which we live, so why should the lawyer be expected to rise above it? The lawyer serves the rich client if possible and the poor client only if the rich one is unavailable. A constant stream of poor people visit our offices in search of legal aid which they need but cannot afford.

The result of the pecuniary competition in the legal profession is that the whole field of legal aid for the poor in both civil and criminal cases is abandoned to second-rate lawyers and tenth-rate magistrates. The lawyer who concerns himself with the agonizing struggles of the unemployed tenant and the wife of the drunk is looked upon by his own profession as a man who has failed to make good. The "big lawyers" rarely take such cases except when they are so well established as financial advisors and corporate manipulators that they can afford to stoop gra-

ciously and render conspicuous aid in the presence of the press.

The one bright spot in the situation for the poor litigant is the excellent work of the Legal Aid Society. In 1931 the society gave advice or coöperation in 40,200 civil and criminal cases, charging a fifty-cent fee in most civil cases and nothing at all in criminal cases. The Voluntary Defenders Committee of the Legal Aid Society works for the most part in the Court of General Sessions where prisoners are prosecuted on felony charges. Without the aid of this committee the poverty-stricken prisoner charged with burglary or arson, for instance, would be in a helpless position. The law says that the judge in such cases may assign counsel to the prisoner but no provision is made for paying the counsel. The young, salaried lawyers of the Voluntary Defenders Committee who handle such cases at an average cost of $28 a case get many contributions for their work from the great corporation law factories, where the "big" lawyers of New York spend their time fighting over property rights.

The poor prisoners in the Magistrates' Court do not have any free lawyers to defend them because the Legal Aid Society does not have enough money to provide lawyers for these courts. The society can afford to defend only the felony cases in the Court of General Sessions. A poor man who is arraigned in a Magistrate's Court is asked by the judge: "Do you wish to have counsel?" If he replies that he has no money, it means that he can have no counsel. Even if he is charged with a serious crime he

must go through these preliminary stages without the help of a lawyer. If he tries desperately to raise money for a lawyer, he is more than likely to fall into the hands of the bail-bond racketeer who works in partnership with a shyster lawyer.

Most New York lawyers are so frantically busy trying to extract an income from business quarrels that they are not interested in reform of the courts. No better illustration of this charge could be found than the continued failure of the bar to overcome legal delays. When the City Affairs Committee made its attack upon the three-month vacations of New York Supreme Court judges in the summer of 1931, the Supreme Court of Brooklyn was three and one-half years behind its calendar and the Supreme Court of Manhattan one and one-half years behind.

In spite of this fact many judges had been stretching their inexcusably long summer vacations (July, August and September) to include several weeks of June and many extra days at the Christmas and Easter seasons. In June, 1930, nine judges sitting in the Brooklyn Supreme Court averaged fifteen days out of a possible twenty-three; in June, 1931, eight judges in this same court averaged seventeen days out of a possible twenty-three. In December, 1930, these same Brooklyn Supreme Court judges lost twelve trial days in addition to Christmas vacations.

When there is such obvious neglect of duty in the higher courts, it is natural that the Magistrate's Court should emulate the standard. The magistrates come in late

and leave early. In 1928 the enterprising members of the Women's City Club decided to check up on the magistrates of Manhattan to discover what time they arrived in the morning and left in the afternoon. The ladies discovered that on the basis of a six-day week the average court session lasted only three hours and eleven minutes a day. These magistrates, it should be remembered, do not have any weighty documents to examine in off-court hours as appellate judges have. Their duties can almost all be performed during the court session.

Judge Seabury commented on the Magistrate's Court incompetence by saying:

"In the Magistrates' Courts of the City of New York, the business of the court is generally concluded very early in the afternoon, and even while the court is in session many of the employees are not kept continuously engaged in the performance of any duties. In the Children's Court the justices sit but a few hours each day. An examination of the Report of the Court of Special Sessions for the year 1931 discloses on its face that this court does not transact sufficient business to keep its judicial and clerical staff busy more than a part of each working day.

"There is, in my opinion, no doubt that the number of employees in our inferior criminal courts could be substantially cut down, at a great saving to the public, if the personnel were limited to competent, efficient and industrious employees."

And again he said:

"In the Borough of Manhattan which has a population

of about 1,900,000 we have 27 judges in the inferior criminal courts and 9 judges in the Court of General Sessions, making a total of 36. Detroit with a population of about 1,550,000, has but ten judges in the whole of its criminal courts."

Incidentally the cost of New York's elaborate and overmanned system of Magistrate's, Children's and Special Sessions Courts, comprising seventy-four justices and a whole army of underlings, is $3,271,000 a year.

Judge Seabury might have added that the real burden of responsibility for making the courts of New York efficient rests upon the lawyers and that thus far they have been timid to the point of cowardice in criticizing incompetent judges and correcting inefficient practice. When the City Affairs Committee made the very modest suggestion that the summer vacations of Supreme Court judges be cut to two months instead of three, not a bar association in the city went on record in favor of the plan in spite of the fact that it had wide newspaper support.

Incidentally, it should be said that the Municipal Court of New York is probably just as corrupt as the Magistrate's Court. One of us can testify that when he began a campaign for court reform in 1927 he was flooded with as many complaints against the Municipal Court as any other. This court has thus far escaped an investigation.

As we write this book six months after Judge Seabury's final report on the Magistrate's Court not a single magistrate who was removed from office or resigned has been disbarred from the practise of law, and not a bar associa-

tion in the city has moved to discipline those notorious officials as lawyers. If a man is morally unfit to be a judge he is morally unfit to be a lawyer. Yet the bar associations permit the unfit ex-magistrates to continue their large and lucrative law practises.

The timidity of the bar associations was never better illustrated than in the famous telephone call of John F. Curry to Justice Henry L. Sherman of the Appellate Division to ask for a stay keeping Dr. William F. Doyle out of jail. Justice William Harmon Black had found the veterinarian guilty of contempt of court and sentenced him to thirty days in jail for refusing to testify before Judge Seabury. Doyle's lawyers led by Samuel Falk, son-in-law of the Republican count boss, Samuel S. Koenig, asked for a chance to get a stay in execution of the jail sentence, and Judge Black agreed on condition that Judge Seabury was to be notified in time to appear and fight the request for a stay. Instead of appealing to an appellate justice in New York, where Seabury could appear, Tammany took the case to Justice Sherman in Lake Placid. Boss Curry telephoned to Lake Placid from his own apartment and arranged to have Doyle's lawyers apply for a stay there at 11 o'clock the next morning. At 10:35 that morning Judge Seabury in New York was notified that the application for the stay was being made before Justice Sherman at Lake Placid, three hundred miles away. Justice Sherman granted the stay. Seabury had been tricked and judicial canons violated.

The Association of the Bar of the City of New York

never even rebuked Justice Sherman for this action. It made an "investigation" and issued a mournful report regretting the "unfortunate" intervention of Mr. Curry and exonerating Justice Sherman.

Occasionally some lawyer says what he thinks about Supreme Court judges. Meier Steinbrink in 1924 said: "The majority of Supreme Court judges do not really work. Some of them are lazy. Of course there are a few who really work, but as for many of them, I would not give them $1700 a year as law clerks not to mention the $17,500 they receive. They and equally lazy lawyers are the primary cause of the congestion in our courts." [4] Now Mr. Steinbrink is himself a Supreme Court judge, and the salaries of Supreme Court judges have been raised to $25,000 instead of $17,500. He gained his new dignity as part of the judicial deal which we described in the last chapter.

Judge Seabury's plan for reforming the Magistrate's Court is deserving of respect largely because it recognizes its limitations. He admits that no plan of reorganization can amount to anything of permanent value unless the courts are freed from the control of the present dominant political machine. To that end he suggests that magistrates should be chosen by the Appellate Division of the Supreme Court rather than the mayor, and for the sake of economy and efficiency he recommends that the present minor criminal courts of New York City should all be consolidated in a new Court of Special Sessions whose branches would all operate in a few central buildings.

The best argument for the appointment of magistrates by the justices of the Appellate Division is that these justices are more independent of their party machines than a mayor. They have been appointed for ten-year terms and their line of promotion often leads away from the local machine toward Albany and Washington. Some of them are old enough so that a ten-year term marks the end of their political life and they have nothing more to ask of the machine.

Probably nothing will come of Judge Seabury's suggestions for a new method of appointing magistrates precisely because the suggestions would take away from both Republican and Democratic machines an important part of their patronage. A constitutional amendment would be necessary to bring about the change, and at Albany such an amendment would encounter the united opposition of the old party bosses. This hopelessness of getting real legislative remedies in Albany underscores our belief that a city government can rarely be redeemed independently from national or state politics. What New York City needs is not only a program of reform but a state-wide party to put it into effect. Without such a party even Judge Seabury's program of reform could be adopted and jettisoned as so many structural reforms have been nullified in the past. The mayor is now the tool of the Democratic machine in appointing magistrates; transfer his appointive power to the Apellate Division and after the first wave of public indignation had subsided, a machine gov-

ernor might be discovered appointing an Appellate Division pledged in advance to choose local magistrates recommended by district leaders. Such things have been known to happen in the past. For this reason we emphatically oppose the transfer of the power to appoint magistrates to the Appellate Division as a futile gesture.

A City Club committee which studied Seabury's suggestions for reform of the Magistrate's Court apparently had the same fear of pollution of the Appellate Division. It said: "The committee is of the opinion that such a change (appointment of magistrates by the Appellate Division) would not accomplish its purpose, but rather its tendency would be to put the Appellate Division into politics."

All suggestions for the reform of the lower courts boil down to this, that hardly any mechanical change, no matter how good in itself, will be worth making unless the "contract" system in use by the Tammany district leaders is abolished. Under that system the district leader, sitting at his desk in the clubhouse each night tells Jim Jones or Tom Smith: "I'll fix that with the judge." And he does fix it with the judge because the judge is his creature.

Some reformers have suggested that magistrates should be elected instead of being appointed by the mayor. The suggestion seems futile to us because the same men would be chosen by appointment or election as long as Tammany controlled the judicial conventions. Nor does the jury system in the Magistrate's Court offer a very intelligent way out. Juries are expensive and slow moving.

That part of Judge Seabury's suggestions for the Magistrate's Court which has the best chance of adoption is his program concerning lawyers and bail-bond racketeers who now exploit the poor in the most pitiless manner. We shall discuss these things when we treat of the police in the next chapter. Of one thing we feel certain, that the establishment of an office of Public Defender for those unable to hire a lawyer would be a great forward step in all the criminal courts. Justice will be a mockery for the poor as long as they must depend upon the vagaries of private charity for legal defense. A Public Defender with assistants for every branch of every criminal court would go far to eliminate the worst types of injustice.

8

THE LOWER WORLD OF THE LAW

THE poison of favoritism and incompetence seeps down from the courts to the police, the shyster lawyers and the court clerks. The system cannot be rotten at the top and pure at the bottom. Bribery, illegal detention, fee-splitting, and the third degree have become established parts of the New York City police system because the political machine that governs New York does not sincerely desire an impartial or fair enforcement of the law. Says the Wickersham Commission in summarizing its findings on lawlessness in New York City:

"The investigators were repeatedly told—not by sensation mongers but by observers of high position and ability, long experience and unquestioned disinterestedness—that the courts know that some of the prosecutors are crooked and the prosecutors know that some of the courts are crooked, and both know that some of the police are crooked, and the police are equally well informed as to them. If a policeman or detective who has worked hard and effectively to land a bad criminal in jail sees him get off through improper influences, he will tend to be less zealous in the next prosecution. He will be inclined to

take the easiest course and merely try to get a confession without a too nice regard for the means employed." [1]

And, the commission adds: "The third degree is widely and brutally employed in New York City. . . . Third-degree methods, authoritatively reported to us as recently employed include: Punching in the face, especially a hard slap on the jaw; hitting with a billy; whipping with a rubber hose; kicking in the abdomen; tightening the necktie almost up to the choking point; squeezing the testicles. Methods are favored which do not leave visible marks, because these attract the attention of the courts and sometimes lead district attorneys not to use the confession. There is said to be a practice that the arresting officer does not commonly do the beating; another man will do it, so that when the arresting officer takes the stand it cannot be charged that he used force."

We do not pretend that New York police are unique in their use of the third degree. Practically every large police station in the country has a room apart from the others where prisoners are questioned, and it is common knowledge that these rooms are used for practices which could never stand the light of publicity. In New York the third degree has long been a matter of public record, accepted with more or less complacency by people who cannot think of themselves in the rôle of the persecuted victim. When in July, 1932, twenty-year-old Hyman Stark was so badly beaten by Mineola police that his Adam's apple was broken and he died of strangulation, a burst of protest came from the press and there were quick indict-

ments of 13 policemen. But many prominent citizens immediately rushed to their defense, and a jury finally acquitted them.

"The Police Defense Committee," said the New York Sun, "organized by George W. Loft, the former head of a chain of candy stores and now president of the South Shore Trust Company; William Welden, Jr., Nassau County manager of the Greater New York and Suffolk Title and Guarantee Company; Dr. Theron W. Kilmer and Edward Sykes, was formed to raise money and to bring public opinion to the point of approving the act of the police in beating Hyman Stark to death, crushing his throat and allowing him to strangle on blood, even though they had plenty of evidence against him and his companions to convict them of the robbery and beating of the aged mother of a detective, and had no need to torture the prisoners to extort confessions.

" 'If you let down the bars, kiss the gangsters on each cheek and offer them pink tea, our women and children will not be safe, and they must be safeguarded against these crooks at all costs,' the former candy maker said.

" 'Nassau County has been reasonably safe as a result of the methods used by our policemen. It may be true that they went a little too far in this case, but who is the man who hasn't made a mistake in his life? Do not forget the wonderful service these men have rendered in the past for the citizens of Nassau County.

" 'In the words of big Chief Devery, "There is more law in the end of a nightstick than there is in all the courts of the land." ' " [2]

The blow that killed Hyman Stark was probably no harder than other blows that have disfigured New York prisoners without killing them. M. Fiaschetti, former head of the Italian squad of detectives, does not stop with

fists. He uses a baseball bat. In his book, *You Gotta Be Rough,* he says: "I went to the Tombs and got myself a sawed-off baseball bat and walked in on all those dogs. Yes; they came through with everything they knew." [3]

Sometimes they "come through" with things that they do not know just to avoid one more skull-crushing swing of the baseball bat; and then the "confession" is repudiated in the courts while a baffled jury tries to solve the riddle of which side is lying. In the long run the violence of the police defeats its own ends for every confession is distrusted if the prisoner chooses to repudiate it, and, when the public is aroused over some particularly flagrant example of the third degree, no judge dares to accept a confession at its face value if it is repudiated. Three days after the killing of Hyman Stark by the police of Mineola, there appeared this significant story in the *World-Telegram*:

In County Court, Brooklyn, H. Abramowitz, 19, of 71 Herzl Street, Brooklyn, charged with first degree robbery, repudiated a confession which Assistant District Attorney Charles N. Cohen sought to introduce.

Abramowitz told Judge Franklin Taylor that police got him out of bed, refused to tell him what he was being arrested for until they got him to Miller Ave. station, Brooklyn, and when he denied knowledge of the robbery, twisted his arm until he screamed in pain.

"To save it from getting broke," he said, "I was ready to say I did anything they wanted me to."

Judge Taylor directed a jury to acquit Abramowitz when his counsel, Harry B. Siegel, pointed out that on three previous times when the case was called the State produced no witnesses. It had none today.

The Wickersham committee found that assault and battery of prisoners by New York police had been popular for a long time. It quoted a former New York district attorney, R. H. Elder, who said: "The third degree has now become established and recognized practice in the police department of the City of New York. Every police station in the city is equipped with the instruments to administer the torture incident to that process." Mr. Elder's opinion is not unique. The Association of the Bar of the City of New York appointed a committee in 1927 to report on lawless practices of the police and the committee which included three former district attorneys of New York County and three former United States attorneys for the southern district of New York, among whom were Emory Buckner, William Travers Jerome and Charles S. Whitman, said: "From our aggregate experience and from such information as we have been able to acquire in our study of present conditions, we are of the opinion that these accusations (of brutal and violent assaults to extort confessions) are well founded."

The records of the Voluntary Defenders Committee of the Legal Aid Society bear out Mr. Elder's statement. The lawyers of this committee who interview prisoners in jail have found violence against prisoners so common that the prisoners do not even bother to report it on most occasions—they assume that it is a matter of police routine. Of 1,235 prisoners helped by the Legal Aid Society in 1930, 289 said they were beaten by the police, and the lawyers of the society believed their stories were suf-

ficiently credible to record the method of extra-legal punishment. The records of punishment of the men who were listed in the society's statistical table read: "Night stick; Kicked in stomach; Hit in jaw; Beaten; Knocked out teeth; Rubber hose; Fists, rubber hose; Blackjacked; Clubbed on ear; Struck with shovel; Broke wrists; Dragged by hair all day; and so on and on. Of these 289 victims of police violence 166 were given the violent treatment as part of the third degree.

Contrary to the usual belief, the police of New York do not confine their third-degree methods to hardened offenders. Of the 166 third-degree victims listed by the Legal Aid Society in 1930 nearly half were first offenders, and only 17.5 per cent had felony records. One boy of 15 was beaten with fists; twelve boys of 16 were beaten with nightsticks, blackjacks, rubber hose and fists; sixteen boys of 17 included one kicked in the testicles. And so on.[5]

Many of these boys had come through the New York public school system where, in the civics textbook, they had seen a picture of the New York County Court House bearing this inscription: "The True Administration of Justice is the Firmest Pillar of Good Government."

The physical result of such treatment was made public in the famous Barbato case in which the prisoner "confessed" the murder of Julia Museo Quintieri after a terrific beating, was sent to the death house, and later released when the method by which the confession had

been extracted was made public. Dr. Radin who examined Barbato testified: [6]

Q. Now, doctor, will you tell this jury what your examination disclosed?

A. I found echymoses, that means black and blue marks, over the right arm, with some swelling of the arm, with a hemetoma over the middle of the arm. A hemetoma is a little collection or tumor of the blood. There were several abrasions over the right elbow and right forearm. Abrasions are superficial scratches. There are livid stripes over the right forearm and back of the right hand. There are echymoses, black and blue marks, over the left arm, also over both eyelids on the left eye; over the left malar bone, that means cheek bone here (indicating); there were some abrasions in the right temporal region, that is, up here (indicating)—

The Court. Witness indicates by placing his hand on the left temple.

A. (Continuing.) There were a few echymoses over the back of the neck, and he complained of pain on manipulation of the head. There are some echymoses over the right scapula; that is, the shoulder blade. There were echymoses over both sides of the back and in the left lumbar region; that is, the left loin, in the left lower axillary region—the axillary region is the side of the chest, and the left lower axillary region would be the lower part of the side of the chest—there were echymoses over the right buttock and over the front of the right thigh and over the front of the left thigh and over the back of both thighs; there were some abrasions of the right leg."

The worst forms of police brutality usually come in a "drive" that is staged after some sensational crime. Then the police must do something, anything, to appease public

anger. Grover Whalen, as commissioner of police, had as the slogan for his drives: "There's plenty of law at the end of a nightstick." It should have read: There is plenty of lawlessness at the end of a nightstick. Whalen announced in a public attack upon the Communists that "these enemies of society were to be driven out of New York regardless of their constitutional rights." Fortunately for the Communists and the Constitution, Whalen's nightsticks were wielded in so bloody and public an encounter that even New York's complacency was disturbed. It was perceived that nightsticks under certain circumstances might make Communists more rapidly than Marxian speeches, and Mr. Whalen retired from his original position with his gardenia and his reputation badly wilted.

When children were shot by gangsters in the streets of New York in the summer of 1931 Commissioner Mulrooney ordered a great "drive" of indiscriminate arrests in which the first night's haul of 105 persons contained not a single victim chargeable with a definite crime. The New York police department does not bother to observe the law that requires the prompt arraignment of a prisoner before a court, and in this negligence lies one explanation for the frequency of the third degree. The law itself contains a loophole. Section 165 of the Code of Criminal Procedure says: "The defendant must in all cases be taken before the magistrate without unnecessary delay, and he may give bail at any hour of the day or night." He *may* give bail at any hour of the day and night—not *must.* It is a misdemeanor for a police officer to violate

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Rollin Kirby and the New York World-Telegram.

"AW, IT'S ONLY A KID!"

this law; but what does it mean? What is "unnecessary delay"? The New York City Charter makes a most lenient interpretation of this law. In section 338 it provides that the policeman immediately after he has made an arrest must convey "in person the offender" to the nearest sitting magistrate, but that if this magistrate is not sitting the prisoner may be kept in the station house until the next regular sitting of the magistrate. So a man may be arrested in the late afternoon, beaten to a pulp at various intervals during the night, and washed up carefully in the morning after his confession has been extracted. Or he may be taken from police station to police station while his relatives are sent to the station he has just left. Or he may be "detained" in a police station without being arrested so that the police officers can truthfully say later that he was arraigned immediately after arrest.

It is the poor, of course, and not the rich who are subjected to illegal violence by the police. We have never heard of an officer of the Bank of United States or a Wall Street speculator being put through the third degree. Even middle-class murderers like Judd Gray and Ruth Snyder are subjected only to the ordeal of long questioning. If some of our wealthy traffic-law violators experienced the police handling given to Socialist strikers they would be somewhat more concerned with police lawlessness.

We approach the proposed remedies for this situation with a sense of despair. We do not believe that the ordinary policeman on the beat is to blame for illegal detention and the third degree. These practices are part of a

system that has been allowed to grow up largely because of public inertia and the survival of savage traits. Most New York policemen are courteous, hard-working servants of the law, probably tainted by liquor graft but otherwise self-respecting citizens. Their pay is not high—even the first-class policemen average less than $60 a week—and their physical risks in gang-ridden New York are considerable. Their conduct is determined not so much by themselves as by police tradition. In London the police tradition is against violence and the third degree is unknown. In New York it is an accepted part of police practice because New York is part of the United States and almost every city in the United States suffers from the same affliction.

No official exposures or programs for reform seem to have any effect upon police conduct. The Page Commission in 1908 said almost precisely the same thing about illegal detention of prisoners in station houses that Judge Seabury said in 1932. The Page Commission said concerning the detention of prisoners in station houses illegally: "The plain provisions of the Greater New York charter . . . have been repeatedly violated by the police." Judge Seabury in his magistrates' report said: "One of the most insidious influences in the administration of justice is the atmosphere and relationships that exist in and around police stations. These stations scattered throughout the city are isolated outposts, little controlled by public opinion because the operations that go on there are so mysterious that little can be known of them by outsiders.

In almost every case of framing that came out during the investigation, the police station was the place where the dirty work of bribery and fixing was carried on. . . .

"If we add to this sinister process the fact that the third degree, when it is practised, is generally done in the police station, we have an overwhelming argument for a complete reform of the station house, which as a practical matter, cannot be accomplished, or else a method by which the prisoner shall be taken into court without an intermediary trip to the station house. Legislation should be enacted providing that all persons on arrest, regardless of the offense charged, should be taken directly before a magistrate, the charge read to them, the statement of the arresting officer taken upon the record and an opportunity given to the prisoners, after first advising them of their rights, to make a statement of their own. . . . At least one term of the court should be in session at all hours of the day and night, to which arrested persons could be brought."

This last suggestion of a twenty-four-hour magistrate's court for the prompt arraignment of all prisoners is the most practical device to avoid the fixing of cases by both the police and criminals. The danger hours in any criminal case are the hours between arrest and arraignment. During those hours the shyster lawyer, the district leader, the bail racketeer, and the over-ambitious policeman all may have their chance to exploit the prisoner or distort the truth. Professor Raymond Moley suggests that the present system can be revised without any change in the

law. The present deputy assistant district attorneys who are supposed to function in the Magistrate's Court are useless. Professor Moley would have them dismissed and lawyers hired by the Police Department to examine every prisoner arrested in the presence of a magistrate immediately after his arrest.[7]

Certainly a city of the size of New York could afford to have at least one emergency magistrate sitting in each borough all night to prevent the police from forcing a "confession" upon any prisoner before he has had a chance to say guilty or not guilty before a magistrate. But no law revising the practice of handling criminals will be effective in the long run unless public opinion forces its observance by the police. Good, sound laws against unnecessary detention in police stations have been on the statute books of almost every state in the union for many years, but the police of nearly all our larger cities have ignored them. The police are so powerful that they can make their own law if their superior officers do not interfere.

In the case of the liquor racket in New York, it is a matter of universal knowledge that a system of speakeasy protection exists with payments to police and prohibition enforcement officers. One speakeasy proprietor, writing a public confessional recently, said that each speakeasy paid about 25 per cent of its gross receipts for protection. The testimony before the Hofstadter committee indicated that small speakeasies pay their tribute to

the ordinary plainclothes patrolmen, but that, to use Judge Seabury's words, "the larger operators, who could and were willing to pay well for protection, were reserved for the higher-ups. This does not mean that the lower police officers were not left with plenty of opportunities for graft. One of them who was shown to have deposited $99,000 in ten years, stated that 'the cop,' such as himself, got only 'the crumbs from the table.' "

The real feast of liquor and gambling graft in New York is spread for the higher-ups, and it is a feast so tempting that it would corrupt any set of human beings below angelic standards. Grover Whalen estimated that there were 32,000 speakeasies in Greater New York when he was police commissioner; more impartial authorities have placed the estimate at twice that number. The scale of prices for protection was indicated in the case of Police Inspector Mullarkey of Queens, who asked $500 a week for himself and $100 a week for an assistant for the right to run an alcohol manufacturing plant in Queens, but finally settled for $200 a week. He disappeared during the Seabury hearings.

The situation in regard to liquor racketeering in New York to-day is so abnormal that we have purposely avoided any extended discussion of it. The liquor traffic has always been a source of trouble for the government of New York, but since the adoption of the Eighteenth Amendment it has been peculiarly troublesome because of the amendment's unpopularity. Since the great majority of the people of the city do not want prohibition, they do not

hesitate to coöperate with bootleggers and police in flouting the law. In these circumstances, there is bound to be a system of protection for an industry which the majority of New Yorkers consider justified.

If we are going to have a liquor trade—and it now seems inevitable that we must have—the Socialist solution of government ownership and operation of the industry seems the most logical one. Take profit out of liquor and half the gangs in America would have nothing to live on. Sell liquor at cost under the most careful regulation and the bootlegger would soon lose his customers.

In the exposure of the framing of innocent women by the vice squad, it was discovered that even the experienced reformers of the Committee of Fourteen, an anti-vice committee, had been completely hoodwinked for years by a secret alliance of policemen, magistrates, lawyers and bondsmen. Outraged women had been reporting these frame-ups for years, but the position of the police is so powerful that no one believed the women's stories until Judge Seabury's aides discovered one police stool-pigeon, Chile Acuna, who exposed the whole conspiracy. Acuna, once a well-to-do immigrant from South America, died not long after the exposure while suffering from a brain tumor in a Brooklyn hospital. If he had been a gangster and turned upon his gang, his life would have been snuffed out in a few hours. As it was, the police, whom he had betrayed, did not dare

to kill him because they knew that his death, like the death of gambler Rosenthal on the orders of Police Lieutenant Becker in 1912, would have brought down upon them the vengeance of an aroused public.

We cannot believe that Mayor Walker and the leaders of Tammany Hall actually knew the full horror of the exploitation of innocent women by the vice squad, but it is fair to say that the conditions which grew up in the vice squad were a direct result of their negligence and misgovernment. When groveling politicians buy their way to the bench with money or political service they do not change their character over night. When Tammany puts an aged and feeble judge into the most difficult legal post in the United States, the office of District Attorney of New York County, it means that Tammany wants certain crimes overlooked. In the case of the vice squad (since abolished) the whole system of exploitation would have been impossible if the District Attorney had paid any attention to the Women's Court.

New York, considering its size and wealth and the large population of visitors in search of amusement, does not have a great amount of organized prostitution. Opinions differ as to the amount of street-walking, but it is probable that the proportion is less than in Chicago, Detroit, and other large American cities. Tammany cannot be accused of fostering vice on a large scale for its own profit.

Those cases of prostitution which come to the attention of the police are brought into a section of the Magis-

trate's Court, where they are tried by a magistrate with the help of a representative of the District Attorney's office. This representative should be a man of integrity and of sound training in social service work. Under Tammany he is not. For seven years the post was filled by John C. Weston, a former Tammany process server who did not even bother to submit reports to the District Attorney's office. He united with the vice squad in developing a vice ring which extorted hundreds of thousands of dollars from innocent women by having them arrested falsely, bailed out at extortionate rates by a bondsman in the ring, and then bled by a racketeering lawyer who split with the police. The story is the most hideous thing in the whole history of New York. It was concealed for many years because the innocent women who were the victims did not dare to risk the ruin of their reputations.

The ring worked through stool-pigeons hired by the police department. The stool-pigeon would select his victim, arrange to give a signal to a vice-squad patrolman in plain clothes, enter the woman's room on some pretext, give her some marked money or place it on a table, perhaps strip off his coat, and then signal the policeman. The officer would come bursting into the room, arrest the woman for prostitution, and take her to jail. He would appear to be entirely innocent of any desire to frame the woman, and the stool-pigeon would conveniently disappear. The officer would inform the victim that she could get out on bail immediately if she went to a cer-

tain bondsman who was in the ring. The bondsman would adjust his charge for bail according to the amount the victim could pay, usually getting an attachment against her bank book and charging her ten per cent for bail, although the legal rate is three per cent. Then she would be told that she could have her case fixed if she would hire a certain lawyer, also a member of the ring. Each vulture in the ring would extract his toll, and when the case finally came before the magistrate it would be dismissed on recommendation of the District Attorney.

Weston, the assistant to the District Attorney, for recommending dismissal, would get $25 to $150. Altogether he helped in the dismissal of 600 cases and originally claimed a profit of $20,000. The policeman's "split" would depend entirely on the amount extracted by the bondsman and lawyer—the totals over a period of years might amount to a substantial fortune. Officer Quinlivan of the vice squad, said his wife banked $88,000 in five years, of which $61,000 was in cash. Officer Morris acquired about $50,000, of which $10,000 came from "gambling," and $40,000 from his "Uncle George," who died conveniently after giving him $40,000 in one-thousand dollar bills while they were going to Coney Island! [8] Quinlivan went to prison and Morris was dismissed from the force. Altogether there were six policemen convicted of crime and 13 resigned or suspended from the force; the lawyers escaped more easily. Two lawyers were disbarred and one reprimanded as a result of Judge Sea-

bury's exposure of the ring. The vice squad itself was abolished.

No summary of the methods of the police in the vice frame-ups can do justice to their cruelty. Let the Seabury record in the Potocki case tell the story of one woman's suffering:

Mrs. Potocki, for two years before her arrest, had been supporting her two little girls. From 8 P.M. to 4 A.M. she worked as a charwoman. When she returned home she could sleep only an hour or so before giving her two children breakfast and sending them off to school. Then she went downstairs to work in a restaurant until 3:30 P.M. She had, in addition, been selling liquor to friends to add five or ten dollars a week to her income.

At 5:30 P.M., September 23rd, 1930, she was entertaining two friends, Marie Barry and Jack Keeve, when she heard a knock at the door. Two plain clothes men, Lewis and McFarland of the Vice Squad, stood outside and said they had been sent by a friend to get a drink. When they had persuaded her that they were "all right," she let them in. Drinks were poured and $15 placed on a table. Mrs. Potocki's two friends left at approximately 7 P.M. She then told the officers that they must go. Just as she began to remove the bottles from the table, Lewis struck her on one side of the jaw and then on the other. She screamed as she fell; Lewis stood over her and demanded $500. Lewis then fell upon her and ripped off her clothing.

At that moment, Mrs. Barry, who had returned to get a package which she left, knocked at the door. McFarland opened the door for her and struck her on the jaw with such terrific force that the blood spurted from her mouth. Meanwhile, Lewis was still wrestling on the floor with Mrs. Potocki. In his effort to overcome her resistance he hit several times, and beat her severely. McFarland at the same time was holding Mrs. Barry by the hair and dashing her

against the wall. Finally Lewis dragged Mrs. Potocki to the telephone and called for the patrol wagon.

At 9 P.M. the two battered women were taken to the Old Slip Station. Mrs. Potocki, who is corroborated by Mrs. Barry, testified that she called for a doctor all night, but no one paid the slightest attention to her cries.

The trial took place before Magistrate Earl Smith, who was so shocked by the evidence of police brutality that he not only discharged the woman but sent the minutes to Chief Magistrate Corrigan.

Dr. Louis Goldblatt of the Beekman Street Hospital testified before me that he examined Mrs. Potocki on September 26th, at which time he made the following findings: Contusions below the left eye—on the right and left arms and upper sternum—"marks above the right breast, which resembled teeth marks"—contusions on both breasts—the abdomen and upper thighs, on both inside and outside surfaces, and tenderness over the ribs in front, so that it hurt her to breathe.[9]

Officers Lewis and McFarland are now in Sing Sing.

Now that the vice squad has been abolished, the two most important next steps in a thorough clean-up of the Magistrate's Court are the public ownership and operation of a central bond office for bailing out all prisoners and the elimination of scores of surplus court clerks and attendants who act as fixers for shyster lawyers. The elimination of the surplus court attendants will not come while Tammany is in power because these attendants are an important factor in the Tammany machine, but a public bond monopoly would be quite possible in spite of Tammany if a centralized Magistrate's Court is adopted. Possibly Tammany would not oppose such a reform be-

cause the bail-bond racketeers are only scavengers on the edge of the system. Their elimination would affect the power of the district leader only slightly.

The bail-bond racket, as it now operates, has developed partly because New York is so large and impersonal. Originally the theory of bail was that a prisoner who had responsible friends could gain his liberty if those friends trusted him so much that they were willing to risk their property in his defense. Such property usually consisted of a house or land—and still does in our smaller towns. But in New York only a small minority of the people own any property that can be used for bail. The average poor man has no friends who could bail him out even if they wanted to. The result is that when he is arrested he must fall back upon a bonding company or an individual bondsman to whom he has been referred by the policeman or the court attendant. Usually these bondsmen have little offices near each Magistrate's Court with a runner to stay in the court room and get tips from the police and court attendants and an office man to make out papers.

These companies and individual bondsmen operate in New York Magistrate's Courts without any careful regulation or inspection. They are extortionists pure and simple—or, more accurately, vile and sophisticated. They charge their victims three or four times the legal bail-bond rate of three per cent; they may use the same piece of property over and over again in various courts as

security so that if a number of prisoners jumped bail simultaneously, the city could not recover; and they hire "chiselers" to get trade whose salaries become an overhead charge upon the poor who are arrested. One bail-bond racketeer named Steiner who was exposed by Judge Seabury and sent to the penitentiary, extorted from Miss Anna Johnson, a doctor's nurse, on a vice frame-up, her entire savings of $600.[10]

The establishment of one publicly owned bail office which would have a monopoly of the bail-bond business and which would not be operated for profit, would permanently destroy the bail-bond racket because it would take away the pool of profits on which the racketeers thrive. The State Insurance Fund for workmen's compensation has set an admirable precedent for such a venture. A public bail office would have no salesman's overhead in its expenses and it would have no motive to force high bail for trivial offenses. Judge Seabury's recommendations for destroying the bail-bond racket tend in this direction, but they do not, in our judgment, go quite far enough. He recommends low bail in minor cases and points out that in England, where low bail (a pound or two) is accepted in most offenses, there are practically no professional bondsmen. A standard of $25 bail instead of $500 for most minor offenses would be a distinct gain for the poorer prisoners, but as long as some private profit existed in the bond business the vultures would circle about the Magistrate's Court, preying upon their

victims. A publicly owned bail office operated by the State Insurance Fund would put these vultures out of business permanently.

Judge Seabury found that the bail racket was very closely tied up with the incompetence of the Probation Department. Long before his investigation it had become evident that both the probation and parole systems in the city are a grim and expensive joke. Again and again ex-prisoners from Welfare Island have come to our offices and told of a system of payments for parole which they say is still in vogue. We cannot prove their stories because we have no power of subpœna and because the ex-prisoners themselves are so afraid of "the system" that they will not take the witness stand.

The quality of men who care for the moral welfare of discharged prisoners under the Tammany régime was disclosed in 1930, when Edwin J. Cooley, head of the Probation Department of the Court of General Sessions, resigned under fire after it was discovered that he had authorized the controller to make payments to his sister for seven months in 1929, during part of which time she was employed in Buffalo. He was acquitted by a jury after a trial in which he was prosecuted by an inexperienced young assistant district attorney and defended by one of the ablest lawyers in New York.

In the Probation Department of the Magistrate's Court the care of prisoners on probation is slipshod, incomplete and irresponsible, particularly so in the Women's Court, where the supervision of young girls is especially

important. Young girls with venereal disease planning to start their life over again after medical treatment and discharge have found that the probation department has sent letters to their distant parents, saying that their "daughter is in the hospital with an infectious disease" and is being held in the Women's Court. Judge Seabury and his staff showed that such stupidity was typical of the department. Almost no check-up was made upon the stories of delinquent girls on probation—they might have continued as prostitutes and no one would have been the wiser. Very few of the girls were visited once a month, as the law required, and the most flimsy and unverified "reports" were accepted without further investigation. "Dear Miss McCauley," one girl wrote, "I am well. Hoping you are the same. Oblige." This was the kind of "report" which was accepted for a whole year as "supervision." One "report" on the case of a male probationer deserves to stand with this. "The defendant is of good character and habits, with the exception that he stays out late at night, associates with undesirable companions, refuses to work, and will not obey the reasonable dictates of his parents."

Many of the magistrates have chosen to dismiss their prisoners rather than place them in charge of such paragons of stupidity—which paragons, by the way, cost the city $250,000 a year. Even when a prisoner has a long police record the magistrate often dismisses his case without placing him on probation. Judge Seabury discovered 196 such cases in the Magistrate's Court in 1930 alone.

He strongly condemned the chief probation officer of the Magistrate's Court for incompetence and negligence, and recommended the junking of the present probation system and the creation of a central probation bureau with specialized branches and a health clinic for all the criminal courts of Greater New York. Nothing has been done about Judge Seabury's recommendations. Nothing will be done until Tammany control of the courts is shaken off.

That is the conclusion that we must come to after several years of observation of New York justice. The most perfect forms of social service are nothing but flashy decorations unless the political group in control at City Hall has a sincere desire for honest and efficient government.

9

MACHINE-MADE MAYOR

THE two greatest wonders of American city politics have been William Hale Thompson and James Joseph Walker. Although Thompson in his day was the greatest political clown in the United States he never attained the personal popularity of our Jimmy. Jimmy did not need to "bust King George on the snoot" or carry around a cage full of rats bearing his opponents' names. He was his own show. He was one of the most adroit and charming campaigners that this country has ever produced. His popularity in New York was based upon the solid foundation of good public speaking, quick wit, and a real personal warmth. Given that combination even his weaknesses were an asset—until he resigned. Once the glamour of power had been taken from him people began to wonder just what qualifications he had to direct one of the greatest corporations of history.

Early in his first term he set out to be a tabloid mayor. He exhibited his cleverness at innumerable dinners; he did the graceful and appropriate thing at all sorts of sporting events; he welcomed everybody from channel swimmers to cardinals. And in all of these arduous labors

he had the movie cameras grinding at his elbow and the reporters frantically scribbling notes.

We have called Walker at the head of this chapter a machine-made mayor and the description is quite accurate because without the support of the Tammany machine he would have been destroyed by his own weaknesses far sooner than he was. But almost equally he was a press-made mayor. He was "good copy for the boys." There were thousands of stories about him in the newspapers during the seven years after his election, and of course, most of these stories created a favorable impression upon the reader because in them Walker was presented as saying or doing something important or interesting. Shrewd men know that the sheer weight of publicity is the important initial factor in creating a political hero in America, and Walker knew how to use his commanding position as mayor to win that publicity.

The reporters liked him because he was easy and warm-hearted and lent them money and thought of something to say that would fill an assignment. They swallowed his every utterance, for the most part uncritically, and gave him front-page headlines. This was especially true of the regular reporters who covered the City Hall beat. On this beat in recent years the great New York dailies have had routinists rather than crusaders. Perhaps their point of view has been affected by the knowledge that hostile criticism usually makes it harder to get the next day's story from incensed officials. At any rate, when an important fact concerning unemployment relief, bad city manage-

ment, or constructive social reform was brought before the Board of Estimate by a protesting civic group or party, the fact was nearly always subordinated in the next day's news story to some blatant and empty promise of action by the mayor. The average New Yorker, reading only headlines in the newspaper, judged Walker by those headlines. The newspaper editorial writers might try to undo the work of the headlines by commenting soberly on civic problems but the subway strap-hanger did not read the average editorial.

Moreover, until the *World-Telegram* entered the field Walker was not faced with the kind of blistering day-to-day exposure that was necessary to destroy his popularity with the common voter. The old *World* and the new *Herald-Tribune* were intelligently hostile but the *Times,* New York's most influential paper, did not take the initiative against Walker. It waited until some one else did the exposing. And, as always, Hearst was incalculably crafty, preaching high civic morality while backing Walker and his gang by every journalistic artifice. Hearst's hand was apparently the guiding one in Walker's final resignation, for it was Hearst who made him believe that his vindication at the polls would be overwhelming. Then, when Walker had resigned, Mr. Hearst slapped him on the wrist.

Walker's prestige was increased by the mediocrity of the men around him. We have already pointed out that the borough presidents who sat on the board with him were colorless and obedient, voting like automatons for

the administration measures after the usual logrolling for their district interests. Probably the most colorless and obedient of all was the nominal Republican, George U. Harvey of Queens, who worked hand in glove with Walker on almost every Tammany measure and even introduced the resolution which raised Walker's salary from $25,000 to $40,000 a year.

Joseph V. McKee, who succeeded Walker as mayor of New York, sat at the right of Mayor Walker for almost seven years on the Board of Estimate with a pained expression on his face looking like a "bored Prince of Wales." He is a much quieter and more dignified person than his predecessor and Walker's clowning made him wince. He accepted it because he was forced to accept it as a member of the machine. Toward the end of Walker's reign when it seemed that the desertion of a sinking ship might be good politics, he sometimes rebelled against his chief, but in nearly every important vote he stood with the mayor.

Walker handled his powers as mayor with the utmost recklessness. On all the occasions when we visited the Board of Estimate during his administration he was never once on time. Quite commonly he was an hour late for the opening of the session, although his presiding over this board was the most important duty of his office and often the most pressing legislative matters had to be held up until his arrival. Likewise in our experience we have never known him to take less than an hour and a half for luncheon, even while sweating crowds were standing up

in the board chambers waiting for his return. When he did arrive he often scolded a citizen who was protesting against some measure for taking one minute over his allotted five minutes. His tact and charm were not always evident in the legislative chamber. Often he appeared so tired and cross from his labors of the previous day, or night, that he hardly seemed to know what was going on. He was savage and coarse in shouting down (through his loud speaker) many a luckless citizen who aroused his anger.

James Joseph Walker came to the mayoralty through steady promotion at the hands of his Tammany colleagues. Born in 1881 on Leroy Street in old Greenwich Village, he came from an Irish family steeped in Tammany politics. His father had been a Tammany alderman, assemblyman and leader of the old Ninth Ward. In his youth he wanted to be an actor and this aspiration explains a large part of his conduct as an adult. He did become a passable pianist and vaudeville gag man, making $10,000 on one song, "Will You Love Me in December as You Do in May." He met his wife while he was a gag man in a musical comedy and she was in the chorus. He decided to become a lawyer and work for "the organization," so, after graduating from the New York University Law School, he was sent to the assembly and later to the senate as one of the young "slaveys" of Charles F. Murphy.

At Albany, where he served for fifteen years, Jimmy Walker revealed two qualities necessary for political suc-

cess. He always voted with the machine and he made a host of warm personal friends. In personality and conduct he was the antithesis of the dullness and routine of legislative life at Albany. He dressed boldly, drank gaily, and fought for the freedom of sports. He gradually became known as a warm-hearted "regular fellow." His party finally chose him as its leader in the Senate, a post usually occupied by a rising young subordinate of the machine who can be trusted to have no mind of his own in serious matters. It was from this post that Tammany promoted him to City Hall, with the potent help of Alfred E. Smith.

After the stupidities of the Hylan administration the city and Tammany Hall gave a sigh of relief when a personable and plausible mayor moved into City Hall. Hylan, who had been forced on the Democratic organization by Hearst as his price for supporting the party ticket, had neither intelligence nor charm, and he was one of the most erratic mayors New York ever had. The Tammany leaders were relieved when Walker took office because they again had a man at City Hall who would obey orders, and the people were relieved because they were rid of a colorless bore. Walker not only obeyed orders with alacrity but he boasted before and after election that he was and would be a Tammany mayor.

He promptly appointed as heads of various departments a whole string of Tammany district leaders whose qualifications for the offices consisted of loyalty to the machine and personal friendship for Jimmy. His judicial appoint-

ments, also, were machine appointments made without heed to the recommendations of bar associations. The degraded character of his administration was partly concealed by a brilliant publicity stunt, the appointment of a gigantic committee on plan and survey for the city, composed of 472 more or less distinguished members. The various activities of this gigantic committee distracted public attention for months. Sub-committees were appointed and books were written and reports filed away; and if Walker ever read the reports there is no evidence of it.

There was, for example, the report of the mayor's committee on budget and finance, commonly known as the Lehman report. It went in great detail into the clumsy and inefficient method of making the city budget and recommended a complete change in procedure. It recommended that each year's budget should contain a capital outlay program so that the taxpayers would know what public improvements were contemplated—the present budget does not contain these items. It recommended a change in the fiscal year so that there could be a more intelligent consideration of the budget. None of these reforms was adopted. Each year the budget comes up before the Board of Estimate in such an obscure and incomplete form that the civic organizations are almost helpless in criticizing it. The citizen who wants to know what the city is getting for its expenditures cannot find out from the budget because these things are not itemized.

Fortunately for Walker he entered City Hall at a moment when America faced its greatest wave of investors'

prosperity. Land values soared, business expanded hysterically, and millionaires were made over night in Wall Street. The extravagance and mismanagement of the administration were forgotten in the national exuberance. Walker laid corner stones and cut ribbons, and opened bridges, and claimed the credit for himself and for his administration of spending the new excess wealth.

He was fortunate, also, in having a good watch-dog over his treasury in the person of Controller Berry. Berry's department had a number of surprising blind spots—especially a blind spot concerning unemployment relief needs—but it undoubtedly saved the city from the worst forms of drunken spending. In fact, as we write these lines, the City of New York is not in bad financial condition, considering the national situation, and it has not been in bad financial condition during the Walker administration. The looting of funds during the Walker régime has consisted for the most part of a levy upon private business by political brokers who had zoning laws, franchises, or permits to sell. It is probable that only in the payment of high salaries to Tammany chair-warmers has there been any extensive misappropriation of public funds, although some evidence exists that public works are built below contract specifications. We would not condone any of this petty graft; it is serious enough. But it is trivial compared to the large profit-taking of private business at the expense of consumers and workers.

The record of the Walker administration can be quite naturally discussed under the two heads which we have

already suggested, brokers' loot and personal loot. Walker from the beginning of his administration used his power to give to the Tammany machine the personal loot of highly paid, decorative positions. The non-competitive jobs at the top of the city's administration gave him the chance to bestow rewards on almost all the leading servants of the machine. In several cases he appointed powerful district leaders who were notoriously unfit. There were for example the cases of James F. Geraghty of the Bronx and Charles L. Kohler.

The City Affairs Committee in its charges against Walker in March, 1931, cited the appointment of James F. Geraghty as commissioner of licenses and Charles L. Kohler as director of the budget. During Walker's first administration the regulation of private employment agencies had become such a scandal that the State Industrial Survey Commission had recommended that the regulation be put in state hands. Walker's answer was to place in the office of commissioner of licenses in charge of employment bureaus a Bronx district leader, Geraghty, who had been officially condemned for incompetence by the Meyer Legislative Investigating Committee when he was in charge of the Division of Licensed Vehicles. The Meyer Committee disclosed that "the administration of the Division of Licensed Vehicles of the License Department under Deputy Commissioner Geraghty not only made it a hot-bed of petty graft but that the safety of the public had been seriously menaced by the large number of licenses as taxicab drivers issued to ex-convicts."

Geraghty is still in office. Kohler was made Budget Director by Walker after serving as secretary of the Health Department during some of its most serious scandals, scandals concerning which Judge Charles H. Kelby in his report on August 10, 1927, had said that "it is hard to believe that the executive heads of the department were not cognizant of conditions."

We cite the cases of Geraghty and Kohler because they are instances of the way in which Walker was allowed by Governor Roosevelt to whitewash his administration in answering the charges of the City Affairs Committee in 1931. Walker misrepresented his record and his misrepresentations were accepted by the public as a vindication because Roosevelt refused the committee the privilege of a rebuttal. In the case of Geraghty, Walker dismissed the charges against him by describing the Meyer Committee findings as "merely the reflection of a disappointed investigator," and by saying that "Mr. Geraghty's resignation from the License Department had no relation to the investigation, nor was it caused by anything adduced before the committee."

The truth is that the Meyer Committee thoroughly exposed and condemned Geraghty in the most specific words:

> With the advent of the present administration, the Chief of the Division of Licensed Vehicles was shorn of power. An official subordinate was made his actual superior in charge of the issue of licenses and one of the Deputy Commissioners, James F. Geraghty, a district leader in the Bronx, was placed in direct charge of the Division. From time to time the complicity of taxicab chauffeurs in crimes of vio-

lence, often committed in broad daylight, roused public concern. While this branch of the inquiry was under way, Geraghty's resignation was invited and submitted. . . .

Geraghty's tolerance is not difficult to understand in view of his own standards of conduct in public office. For instance, when his political club held an "outing" twenty-seven taxicabs were furnished him gratis by an association of taxi-drivers, which itself paid the men who owned the cabs. When his club gave an affair this same organization was requested to and did buy $100 worth of tickets. When the bill for the transfer of jurisdiction over the licensing of cabs and drivers was pending, employees of the division professed to fear for their positions and raised a fund for expenses in working up opposition by the sale of raffle tickets among the persons licensed by the departments. In a word the division has been completely demoralized.

As Walker blandly ignored the real record of Geraghty so he ignored the ominous Dr. William F. Doyle and his astonishing practice before the Board of Standards and Appeals. In his reply to the City Affairs Committee charges he did not even mention Doyle. The facts about Doyle were a public scandal during the mayor's entire administration, having been spread on the records of the Board of Aldermen by George U. Harvey on May 26, 1925, seven months before Walker took office. The Harvey resolution demanded a special investigation "to inform the people of the city how a veterinarian could come before city boards as an architect and amass a fortune of $2,000,000 in three years." Walker not only had the power to remove the members of the Board of Standards and Appeals who made Doyle's success possible, but he had a whole corps of investigators already on the city

payroll waiting to be used in just such a scandal. The 1931 budget of the city showed that the mayor's commissioner of accounts, who is really his chief investigator, had under him two deputies, eighteen examiners, sixty-two accountants and six examination inspectors ready for a clean-up.

It is indicative of the public attitude toward politics that Walker's failure to be a good mayor was not considered half so serious as any personal dishonesty that might be charged against him. The City Affairs Committee's charges against Walker in 1931 set forth certain convincing reasons why Walker should be considered an incompetent and irresponsible mayor of a great city; the Seabury charges of 1932 set forth equally convincing reasons why the mayor was personally unreliable. Of the two sets of charges those of the City Affairs Committee were more serious from the point of view of the average citizen's welfare because they showed the actual breakdown of government under Walker's reckless rule.

But a large part of the New York press attacked the committee's charges as too general simply because they did not produce sworn testimony concerning the commission of a crime. Few stopped to ask how a voluntary civic body could produce sworn testimony without the power of subpœna. The charges which had been intended only as the starting point for an official probe, were attacked as incomplete, and under cover of the attack Governor Roosevelt was given the chance to dismiss them without loss of prestige. If he had immediately called for a public

trial and appointed competent prosecutors, the mayor's unfitness for office would have been established in a week.

After this experience it became evident that Walker, no matter how unfit, could not be removed unless he was convicted of a crime, either morally or legally. The line of the attack of Seabury upon Walker was marked out for him by circumstance. He had to prove that the mayor either accepted a bribe or came so close to it that the distinction was not a difference. He was compelled by the nature of the electorate to make his investigation a man-hunt. He avoided the worst pitfalls of such a man-hunt by showing the inter-relations of corruption, but it is to be regretted that he did not make a methodical survey of the government, department by department, to show the extent of its demoralization.

The most obvious material ready for Seabury's use was the Equitable Coach scandal. The Citizens' Union had underscored it and the Socialist candidate for mayor in 1929 had made it a major point of attack upon Walker. It was peculiarly a personal scandal because the whole city knew that the mayor himself had personally jammed through the Equitable franchise against all opposition.

As we look back upon the Equitable scandal now it seems strange that no one took the trouble to go to the heart of the complex situation and point out the financial meaning of the deal. A great new industry was developing which was destined to supplant street cars, and the company which secured a monopoly franchise of this industry for greater New York would be in a position to

reap a prodigious harvest. Probably the promoters of the Equitable Coach Company were modest in estimating their profits at $19,000,000 in ten years. The streets of New York were worth that much to any bus monopoly and they knew it.

It was not surprising that a group of financial adventurers began working on the new mayor from the beginning of his first administration, using as contact man the mayor's loud-mouthed salesman friend, Senator John A. Hastings. As soon as Hastings' intimacy with the mayor became known he became a "bus expert," a "taxicab expert," and what have you.

What happened then is too well known to need any complete description here. Hastings had organized a bus syndicate composed of Frank R. Fageol and Charles B. Rose, bus manufacturers, and William O'Neil, a tire manufacturer. Two weeks after Mayor Walker was elected in 1925 they incorporated the Equitable Coach Company and filed an application for a city-wide bus franchise. Hastings was put on the new company's payroll at $1,000 a month and expenses. The corporation was apparently set up in such a way that Hastings and his associates would have made $19,000,000 in ten years without investing a nickel. The initial capital was to come out of the dear public, who would presumably rush to buy stock when the franchise was awarded and leave the insiders with their promotion stock paid for.

The Equitable Coach Company was not apparently worse than many other companies which exploit streets,

gold mines, and consumers. True, it had practically no financial backing and almost no experience in running buses. Chairman Delaney of the Board of Transportation must have blushed a little when he concocted a report that gave a clean bill of health to the company, but he swallowed his doubts and did his duty like a faithful son of Tammany. The reason why the Equitable Coach Co. was exposed was that it had to secure a contract with New York City after public hearings, and its franchise would not stand the glare of publicity. In jamming through the franchise, Mayor Walker and his associates clearly violated section 74 of the city charter which compels the city to make an investigation of the money value of a franchise before granting it—a fact which strangely enough was not brought out at the Seabury hearings. The thing which finally killed the franchise was that reputable bankers would not back it. They pretended that the Equitable's prospects were not bright. We believe that this was only a pretext, that the franchise would have made millions for its backers, and that the bankers shied away because they saw that the franchise was so tainted that it threatened to become a public scandal.

Walker jammed through the Equitable franchise by bargaining with the Bronx and Richmond leaders to give them their own franchises separately, signed the contract on August 9, 1927, and sailed for Europe on August 10th with a $10,000 letter of credit bought for the mayor in cash by J. Allan Smith, the Equitable's New York representative. He says that the two events had no connection!

He produced friendly witnesses at his trial before Governor Roosevelt in August, 1932, to show that all of the $10,000 not contributed by himself came from other people. But the coincidence of that letter of credit being taken out at that particular moment for Mayor Walker by the chief promoter of the Equitable was a little too plain to ignore. The "explanation" was reminiscent of McQuade and his relatives, and Dr. Walker and his split fees.

Meanwhile such a storm had been raised by the awarding of this franchise to an irresponsible fly-by-night corporation that the mayor and the Equitable promoters had to start the fight all over again when Walker returned from Europe. Some of Walker's superiors in Tammany were obviously worried by the scandal. J. Allan Smith wired to Fageol two messages which deserve to be classics in local political literature because they show how Tammany appeals to its financial masters. "No answer yet your suggested financing stop He (Hastings) advises War Board (Tammany Hall) notified boy friend (Mayor Walker) time limit (for commencement of operation of buses under Equitable franchise) was April 15th stop Have made progress upstairs (General Electric Company) and arranged meeting late yesterday between Judge (Charles W. Appleton) and boy friend (Mayor Walker) before he (Mayor Walker) left for Florida stop Judge (Appleton) reported favorable progress and expected to see his boss (Owen D. Young) today and advise me Monday stop His boss (Young) poor health ordered

away for months but if he (Young) says yes we can get extension Will keep you advised."

"John (Hastings) made mistake as his boy friend (Mayor Walker) did not want further negotiations with Philadelphia banker (Albert M. Greenfield) but says go ahead with Brooklyn party (Brooklyn-Manhattan Transit Corporation) Chairman Board (Gerhard M. Dahl) agreeable and like(s) you Things look bright."

(The words in brackets were not in the original telegrams, but since we personally heard the testimony in this case and Judge Seabury embodied substantially these interpretations in his rebuttal to Mayor Walker without protest by the mayor, we feel warranted in including them.)

The second of these two telegrams suggests what certain political insiders have believed for a long time that the Equitable Coach deal was part of a great transit plan in which the Brooklyn-Manhattan Transit Corporation and Gerhard M. Dahl, its head, had bargained successfully with Tammany Hall for transit monopoly of the city. The B. M. T., which had originally been bitterly opposed to the Equitable's bus franchise was suddenly converted to it and offered to coöperate. The borough president of Brooklyn was also converted to the Equitable franchise, and the McCooey machine later helped to put through the award of a bus franchise in Brooklyn to the B. M. T. for $2,000,000 when it was worth more than $14,000,000. Gerhard M. Dahl was receiving about the

time of the Equitable discussion an annual bonus of $75,000 a year, in addition to a salary of $100,000, chiefly for "improving relations with the public"—a fact which we shall discuss later. Mayor Walker became exceedingly friendly both with Dahl and with the promoters of the Equitable. When the Equitable franchise was finally vetoed by the Transit Commission (a State body) because the company could not show any financial backing, Dahl and the B. M. T. gave Fageol, the Equitable's promoter, a handsome order for new buses in spite of the fact that another bus manufacturer had made a lower competitive offer.

The thing which gave the whole Equitable deal an ugly look was not only Mayor Walker's letter of credit bought by J. Allan Smith but the fact that nearly all of the Equitable promoters except Hastings refused to waive immunity when they came before Judge Seabury. The public could not believe after that that their transaction was innocent.

It would be strange indeed if the capitalist politicians and the franchise promoters of New York did not coöperate to give each other unearned profit. The conception of both the Democratic and Republican parties is that the streets, piers, markets, wires, and land of the community are raw materials for private exploitation. If these basic factors of wealth production were socialized, the blessed private initiative of the Hastings, Fageols, and Dahls would be diluted and the city would languish. We shall discuss the meaning of such initiative more fully in the chapters on buses and public utilities.

Walker finally fell not because he sold out the city to private traction interests but because he was too reckless in receiving money from friends whose generosity had developed after he became mayor. Paul Block, for example, might have been more plausible in explaining his $246,000 beneficence to the mayor if his generosity had dated back to Walker's pre-mayoralty days. As it was, the story of how Block opened a stock account for the mayor on the inspiration of his warm-hearted ten-year-old son, who wondered how such a well-dressed mayor could live graciously on $25,000 a year brought loud laughter from the city. Probably those laughs hurt the mayor more than many of Seabury's factual thunderbolts.

Both the Block incident and the Sisto incident showed how difficult it is to convict a modern public official of receiving a bribe. A stock account may be used with perfect safety to pay almost any ill-gotten gain while the stock market is going up. Graft during a depression is more difficult to conceal.

In the Sisto case, as in the Block case, the mayor received stock profits without any written commitment on his part to pay for any stock or to pay losses on any stock. His friends simply "let him in." In one case he received $246,000, in the other $26,000. The $26,000 from J. A. Sisto had definite signs of taint. Sisto was heavily interested in taxicabs and the mayor, shortly after he received the Sisto bonds, fought for legislation that would have greatly benefited the big taxi companies. That the mayor finally failed to win as favorable a measure for the taxicab owners as he had originally planned is beside the

point. He obviously intended to impose upon the industry the kind of regulation that in the end would have meant great gain to such a holding company as Sisto represented. Sisto's sworn testimony concerning the $26,000 gift flatly contradicted the mayor's. Sisto said that the money was a gratuity and that he had paid an income tax on the entire amount. (See Appendix III for Seabury charges against Walker.)

Walker floundered pathetically in explaining these gifts from Sisto and Block. He said that they were not gifts but profits on investments and that he would have borne the losses if there had been any. If they were profits, then why did he not pay income taxes upon them? The law does not permit one member of a partnership to pay the income tax for another. We believe that if Walker's own story of Sisto's $26,000 and Block's $246,000 is accepted, the ex-mayor is clearly guilty of violating both the State and Federal income tax laws. Probably he could not be prosecuted because in these cases the testimony of Sisto and Block that their contributions were gifts rather than dividends would be accepted at face value by the Federal government, and during the years when those gifts were made there was no Federal gift tax.

Seabury's weakest point against Walker was his charge that the mayor had violated the law by owning some bonds of the Reliance Bronze and Steel Corporation when it was supplying the city with traffic-light standards. The charge should never have been made because Walker had obviously done nothing wrong in owning these bonds.

Probably the unexplained millions of Walker's personal business agent, Russell T. Sherwood, did more than any one thing to force him out of office. Here was a man running away after giving about $75,000 of somebody's money to an unnamed person who was a friend of somebody. The tabloid readers could understand that. The unnamed person became the most named unnamed person in the history of the planet. Somebody suggested building a monument and laying a wreath upon the tomb of the unnamed person. Sherwood forfeited all his property in New York rather than return to face Seabury, and an income tax levy of almost $50,000 was made against him.

The public could not think of any reason for Sherwood's disappearance except his connection with the mayor. He had been a $3,000-a-year assistant in Walker's former law office and suddenly, when Walker became mayor, his bank deposits jumped to $98,000 in Walker's first year and totaled $961,000 during the first five years and eight months of Walker's rule. And, significantly enough, almost $750,000 was in cash. Sherwood paid many of the mayor's and Mrs. Walker's bills out of his bank account and then, when asked to explain where it all came from, disappeared.

To the end Walker kept up his amazing front. He screamed that he was being persecuted by Republicans for political advantage; he forgot that long before the Republicans had forced an investigation the Socialists and nonpartisan civic groups had disclosed ample grounds for his removal. He saw that his defense had failed and that he

was about to be removed; so he resigned with the final flourish of a vaudeville star. Slinking off the stage as if already a fugitive from justice he would not deny himself that final curtain.

And to the end Walker was backed by the machine which he had served so faithfully. The Tammany leaders did everything in their power to save him. They obstructed the Seabury hearings until those hearings became at times almost a riot. They packed the hearing room on the days of Walker's appearance by sending a gang of district ruffians through an unguarded back door to cheer him. They sent filibustering lawyers to Albany for the mayor's trial before Roosevelt to raise every fantastic objection possible to a straight-forward discussion of the facts. They kept their machine intact after Walker's downfall, and it still rules New York. It rules New York so completely that, if the present form of voting is continued, they can probably put James Joseph Walker back in the City Hall at any time that they wish.

10

ROOSEVELT AND TAMMANY

By a queer twist of fate the public hero of the drama of Walker's resignation was Franklin D. Roosevelt. He it was whom the Western and Southern papers described as the stern yet fair arbiter who sat in judgment over the Tammany mayor. The legend of his strength and courage spread through the land. Had he not defied the corrupt overlords of his own party? Had they not sought to destroy him at Chicago? What better proof could one want that Franklin Roosevelt was the White Knight who led the forces of civic virtue?

Whereupon we who have lived in New York and for lo these many years have fought the steadily losing fight against the Tammany machine added a third volume to our Library of Presidential Fairy Tales. It was called How Roosevelt Slew the Tammany Dragon, and it sat on the shelf beside How Coolidge Crushed the Boston Police Strike, and How the Great Engineer Brought Efficiency to Washington.

Lest we seem a trifle bitter about Franklin Roosevelt let us add that he is a nice person who once graduated from Harvard, has a good radio voice, and is as sincere as old party politics will permit. But as to his

relationship to Tammany and New York City corruption, which is the sole interest of this chapter, it is the record of a weak man who has been incredibly lucky. To use the words of Walter Lippmann: "It is well known in New York, though apparently not in the West, that Governor Roosevelt had to be forced into assisting the exposure of corruption in New York City. It is well known in New York that, through his patronage, he has supported the present powers in Tammany Hall. It is well known that his policy has been to offend Tammany just as little as he dared in the face of the fact that an investigation of Tammany had finally to be undertaken. . . .

"I do not say that Mr. Roosevelt might not at some time in the next few months fight Tammany. I do say that on his record these last three years he will fight Tammany only if and when he decides it is safe and profitable to do so. For Franklin D. Roosevelt is no crusader. He is no tribune of the people. He is no enemy of entrenched privilege. He is a pleasant man who, without any important qualifications for the office, would very much like to be President." [1]

The illusion of Mr. Roosevelt's courage is an inheritance from his youth when, for a few weeks in 1911 as a young State Senator from Dutchess County he fought William F. Sheehan, who was Charles Murphy's choice for the United States Senate, and, after winning his fight, voted for the Tammany candidate ultimately. After that one rebel yell he was amiable, regular. He played with the

machine, attended its banquets and mass meetings, and became known in the district clubhouses as a "good fellow." He was made governor by Alfred E. Smith who needed a popular Protestant with the right name as a state running mate on the presidential ticket to offset the prejudice against an Irish Catholic son of Tammany.

When Roosevelt ran for governor in 1928 Walker had already been in office for nearly two years, and the character of the man was quite evident. Roosevelt did nothing to offend or criticize the machine which put both him and Walker into office. When the notorious Olvany, whose real estate manipulations we have already described, resigned as Tammany leader in 1929, Roosevelt issued a statement praising him. He continued to do business amiably with John F. Curry. His wife joined the committee of leading citizens to ask James J. Walker to be a candidate for reëlection in 1929.[2]

During his second year as governor (1930) his position of innocent aloofness was challenged by Fiorello La Guardia, Charles H. Tuttle and the Socialist Party. The scandals in New York City government came thick and fast. Rothstein had been killed and Magistrate Vitale had been removed by the Apellate Division for accepting a loan from the gambler. General Sessions Judge Mancuso had been forced out after the failure of the City Trust Company. Roosevelt, instead of scouring the city for a successor to Mancuso who would command universal respect, accepted the Tammany designee for the post, a man who was condemned as unfit for his place by the New

York County Lawyers' Association and who later refused to waive immunity before the Todd grand jury. He refused to make public his files relating to Bertini's appointment after a demand for such publicity by Louis Waldman.

Then in March, 1930, the Republicans in Albany tried to get Roosevelt to investigate New York City on his own authority and the governor vetoed the bill. The Socialist Party, after the Vause pier lease scandal, asked Roosevelt in June, 1930, to initiate a Moreland Act investigation of the New York City situation and the Republicans offered to support a special session of the legislature to give the governor adequate powers for such an investigation. Roosevelt declined in a letter that was scholarly and evasive. He treated the phenomena of corruption in New York not as connected parts of a pattern of political conduct but as isolated incidents to be referred to the Tammany prosecutors and their aides. He would intervene in New York City, he said, only when there was "a failure on the part of local inquisitorial bodies." In practice that meant the reference of Tammany crimes to the aged Curry henchman, T. C. T. Crain.

Roosevelt was shrewd enough in all of his moves never to appear as the agent of obstruction. He fell back adroitly on good constitutional alibis. When he turned down the Republican and Socialist request for a Moreland Act investigation of New York City he volunteered heartily to have plenty of investigations by grand juries and the Appellate Division. These investigations, of course, would be lim-

ited to specific areas and grievances and would not expose the whole picture of the corrupt rule of the city by his party. This is precisely the strategy that he finally used when the scandals in the city became so great that it was bad politics to ignore them further.

When Charles H. Tuttle disclosed the Ewald scandal and Crain failed to get an indictment Roosevelt not only initiated a grand jury investigation of the particular case but he asked the Appellate Division to investigate the Magistrates' Courts in Manhattan and the Bronx. The public uproar was so great that he could do nothing less, but his move for these restricted inquiries saved Tammany from the much more serious revelations that seemed to lie behind Vause's expensive pier leases and Doyle's adjustable zoning laws.

Charles H. Tuttle was perfectly justified when, in running for governor against Roosevelt in 1930 he said: "In the face of this record the Governor has been as blind, deaf and dumb as Tammany Hall could wish him to be. He has pretended to regard each scandal as mere distinct, unrelated and isolated cases to be taken up separately each apart from the other, until the evidence in each became too strong to ignore. He declined to see what even the unanimous Democratic press sees—namely, a common bond and a common significance." [3]

To which Roosevelt replied in his closing campaign speech: "Without further evidence I am not convinced that the seven million people of New York City cannot handle their own affairs and unless by such evidence I am

so convinced I will not interfere with their affairs. Without sufficient evidence I have refused to believe that all judges in New York City are corrupt. Without sufficient evidence I have refused to believe that all officeholders in New York City are dishonest."

So the bold progressive was reëlected governor and Tammany was "vindicated." As each new scandal arose Roosevelt demonstrated just the right proportion of caution and concern. When in the grand jury investigation of the Ewald case Prosecutor Hiram Todd called John F. Curry and other Tammany leaders to the witness stand, they all refused to waive immunity. Todd refused to listen to their evidence unless they did waive immunity. Roosevelt, faced with a virtual admission of guilt by his own party chiefs, was obliged to do something to save their faces or dissociate himself from such company. He evolved a neat formula for doing both at once.

He wrote a solemn public letter to Mayor Walker declaring that no man should hold public office and refuse to waive immunity in regard to his *public* acts. Walker and the Tammany leaders took the cue. The leaders declared their willingness to testify as to their public acts but not as to their private acts. The buying of judgeships which Todd was probing into was, of course, a private act. Todd rightly refused to listen to the Tammany leaders unless they agreed to testify before him without condition. They refused to waive immunity completely, and in the end, they escaped examination. Roosevelt acquiesced in

this evasion and never added a word of rebuke to his pious public utterance.

But still the scandals in New York City grew and the Republicans in Albany finally decided to force a legislative investigation. They forced it through a joint resolution which Roosevelt never signed because he did not need to sign it. They and not Roosevelt chose Seabury as the counsel for that investigation. When it was all done Roosevelt could not refuse to sign the appropriation bill for the investigation without committing political suicide.

While the public demand for an investigation of New York City was growing, the City Affairs Committee, through its chairman and vice-chairman, John Haynes Holmes and Rabbi Stephen S. Wise, brought charges against Mayor Walker; and the City Club filed charges against District Attorney Thomas C. T. Crain. Both sets of charges were intended to be only indictments calling for investigation and public hearings. Both charges served their purpose admirably because they focussed the widespread discontent against the Walker administration on definite points of infection and probably played a determining part in inducing the legislature to vote a complete investigation. The details of the charges against Walker we have discussed elsewhere; here we are concerned with the rôle that Roosevelt played in relation to those charges, a rôle which the public has never thoroughly appreciated.

The City Affairs Committee's charges against Mayor Walker were detailed and broad in their scope. They were

so serious in their nature that no fair judge could possibly have discovered their truth or falsehood without some first-hand investigation of the departments of New York City's government. Governor Roosevelt never made any move to make such an investigation and, what is more damning, he never even referred the charges to the legislative committee which had been created for the express purpose of making an investigation of Walker's administration. The legislative committee to investigate New York City had been created while the charges of the City Affairs Committee against Mayor Walker were still pending and, as soon as the committee was created, Mr. Holmes and Dr. Wise hastened to assure Governor Roosevelt that they would be delighted to have their charges referred to this committee.

Governor Roosevelt declined to refer them. He had received a warning from Tammany that it would consider the reference of these charges to the Hofstadter committee an unfriendly act. He did an amazing thing. He referred the very brief complaint of the City Club against District Attorney Crain to Judge Seabury for a thorough investigation with hearings; he sent the long and detailed charges against Mayor Walker to the mayor for a reply, then refused the City Affairs Committee the opportunity to refute the insolent and evasive reply of the mayor, and finally dismissed the committee's charges against Walker as "too general." He did not have the courage to say that they were false—he had never investigated a single city department to discover whether they were false or

true—and he feared the effect of the smashing rebuttal that the City Affairs Committee could have made. He chose rather to pick upon the aged and feeble Crain, submit him to public torture upon charges which contained not a single detail, and dismiss the 15-page detailed charges against Tammany's powerful mayor as "too general"—without denying a single one of them.

Roosevelt escaped a barrage of public condemnation by lucky circumstance. The average New Yorker had begun to think of the Seabury inquiry as the hope of the city long before Roosevelt had reached a decision on the City Affairs Committee's charges against Walker. In the excitement of the new inquiry the dropping of the charges was not considered serious. Seabury, the public reasoned, would get at the facts more thoroughly than any unofficial committee could.

Seabury discovered enough official and unofficial corruption to shock a continent but it was not enough to produce a tremor at the executive mansion in Albany. During all the tin-box revelations which we have outlined in previous chapters not one word of condemnation or one suggestion of reform came from Governor Roosevelt. Many of the officials exposed were directly responsible to the governor for their conduct and removable by him. The complete evidence against them was published in full day by day in the great New York dailies where Governor Roosevelt could not have failed to see it. Still silence from Albany. Sheriff Farley, the most notorious of the Tin Box Brigade, testified before Seabury on October 6th

and his complete testimony was published October 7th. Silence from Albany for eighty-five days! Then Seabury decided to officially call the attention of the governor to the evidence against Sheriff Farley. He transmitted that evidence to Governor Roosevelt on December 30th, although Roosevelt had had the opportunity to read all the important features of it in the newspapers weeks before. Then Seabury waited. The Committee of One Thousand and the City Affairs Committee put the case against Farley in the form of definite charges on January 18th. Roosevelt did not even have the courtesy to make Seabury's statement about Farley public until the City Affairs Committee had wired him asking for an explanation of his neglect. Seabury waited until January 24th, one hundred and ten days after Farley had testified, before Roosevelt finally decided to give Farley a public hearing.

By this time the newspapers were clamoring so loudly that further inaction had ceased to be good politics. Farley was summoned to Albany where he floundered in his tin box explanations even more pathetically than he had on the witness stand in New York. Roosevelt removed him—gently, without one word of anger, and without any suggestion that his transgressions, as Seabury had proved, were not individual sins but samples of a definite system of plunder by a political machine of Governor Roosevelt's own party.

In removing Farley, Roosevelt made a statement which will remain the outstanding mystery of his political career.

It was a ringing statement of high moral principle such as a man might make who had decided to burn all old-party bridges behind him and fight for a genuine political reconstruction. He said: "As a matter of general sound public policy, I am very certain that there is a requirement that where a public official is under inquiry or investigation, especially an elected official, and it appears that his scale of living or the total of his bank deposits far exceeds the public salary which he is known to receive, he, the elected public official, owes a positive public duty to the community to give a reasonable or credible explanation of the sources of the deposits, or the source which enables him to maintain a scale of living beyond the amount of his salary."

There, for once, spoke a man and not a politician!

Roosevelt must have known when he made this statement that if he followed it through the entire Tammany machine would be wrecked. Unwittingly or sagaciously he had given the reformers and Judge Seabury the very handle they had been looking for. He had proposed a *moral* rather than a legal test for fitness to hold office in New York. He had lightened the burden of proof placed upon Seabury in his arraignment of Walker. Before the Farley statement Seabury was beholden to prove that Walker had actually accepted a bribe or misappropriated city funds; now he only had to produce unexplained bank accounts. Roosevelt's position was made even more significant by the fact that on January 25, 1932, Seabury

issued his intermediate report summarizing the evidence against a whole group of Tammany chieftains and showing that Farley was no worse than the rest.

The City Affairs Committee promptly jumped into the fray again with a test for Roosevelt's new formula. Was the governor talking political rhetoric or really changing his attitude toward Tammany? John Haynes Holmes and Stephen S. Wise signed charges against Sheriff James A. McQuade of Kings County and sent them to Roosevelt; and they also sent to Roosevelt a copy of their charges against John Theofel, Democratic boss of Queens and Chief Clerk of the Surrogate's Court of that county, whose removal they asked by Surrogate Hetherington. Both these men had been convicted out of their own mouths of having large bank deposits for which they could give no credible explanation. Both these men had been denounced by Judge Seabury in language as definite as his denunciation of Farley.

Roosevelt met the new attack by the City Affairs Committee in language so violent and with anger so unaffected that his real attitude toward the whole Tammany machine was revealed as by a flash of lightning. It became apparent that his statement of high political morality in removing Farley was the utterance of an aspirant to the Presidency. He had no intention of following it up. He showed more anger in one burst of resentment against Mr. Holmes and Dr. Wise than he had revealed in the whole course of the investigation of New York corruption. He not only refused to remove McQuade or rec-

ommend an investigation into the conduct of Theofel, but he utterly ignored the other Tammany officials who remained in office with huge bank accounts unexplained, two of them, Flaherty and Curran, assistants to Farley. He consulted with John F. Curry as to Farley's successor. Then he appointed Curry's choice, John E. Sheehy, who calmly proceeded to leave in office the subordinates of Farley who were guilty of the same offense for which Farley had been removed.

Fortunately for the honor of the New York press, not a newspaper in the city except *The Times* took Roosevelt's refusal to remove McQuade and Theofel as an act of political courage. Roosevelt in his reply had attacked the leaders of the City Affairs Committee personally, saying: "If you would exert yourselves patiently and consistently in pointing out to the electorate of New York City that an active insistence on their part would result in better qualified and more honest and more efficient public servants, you would be rendering a service to your community which at the present time you are not performing."

He refused to remove McQuade on the ground that the voters of Kings County had elected him sheriff after reading of his testimony before Judge Seabury and that therefore he was legally purged. "If our system of government were changed," he said, "so as to give to the Governor the duty of overriding and nullifying a definite elective choice by removing an elected official for acts committed prior to his election, with full public knowledge thereof, such change would create in Albany a power so dangerous in

the hands of an unscrupulous Governor that the will of the electorate could be wholly destroyed." In refusing to take any action against Boss Theofel he accused the City Affairs Committee of grave impropriety in asking him to exert pressure upon a "high judicial officer."

The reply of the committee, sent by Mr. Holmes and Dr. Wise, probably did more than any one thing to destroy the confidence of liberals in Roosevelt because it summed up in its conclusion many important facts concerning Roosevelt's negligence. It said:

> You purport to be indignant over our "grave impropriety" in urging "that you use your utmost interest and influence to secure the removal from office of the clerk of the Surrogate's Court." You are shocked that any one should suggest that you "exert pressure" upon "a high judicial officer." This, sir, is the sheerest quibbling! You know perfectly well what we meant in our appeal. We meant and we mean that, had you been worthy of your high office, as alert to the peoples' interest as to your own political advancement, you would months ago have summoned the surrogate of Queens County into your presence and demanded that he act on the facts brought to light by the counsel for the Hofstadter Committee. So far as the public records show, you have done nothing to bring the conduct of his clerk to the attention of the surrogate, who is by law, responsible to you. This in spite of the fact that the surrogate, taking example and advantage of your neglect, did nothing for five months after the facts concerning Mr. Theofel had been made public. The surrogate's present action is only the result of our prodding. Had you moved with the promptness and vigor which the moral aspects of the case demand, there

would have been no need to ask you to use your influence to secure the removal of Mr. Theofel. Your own culpable inaction was at once the cause and occasion of our plea.

You pretend that Surrogate Hetherington is a high and independent judicial official. You know that the surrogate and scores of other officials in Queens County are the creatures of John Theofel, the Democratic leader of Queens, put in office by his power, and kept in office for his advantage. Mr. Theofel himself has publicly admitted that he put the surrogate in his present position. If you do not command or force action against Mr. Theofel, how can you expect his political underling to do so?

Your objection to our appeal for help in the removal of Mr. Theofel is outdone by your peremptory rejection of our charges against Sheriff McQuade, of Kings County, on the ground that he was elected to his present office after the public revelation of his incredible bank accounts. You contend that the legislative system "allows to the registered voters full opportunity to select any citizen no matter what you and I may think of the qualification of that citizen for the office." Dare you say, sir, that the citizens of Brooklyn had a fair chance to weigh the guilt or innocence of Mr. McQuade at the last election? Let us remind you that the disclosures before the Hofstadter Committee concerning Mr. McQuade's unexplained bank accounts were not made until October 7, which was two full months after he had been designated for his present office by the Democratic party convention. He was named at this convention on August 7, confirmed in the primaries on September 15, and did not testify before the Hofstadter Committee until October 7. His nomination on the Democratic ticket in Brooklyn, as you well know, was equivalent to election.

Furthermore, at the election of last November, the

voters of Brooklyn were not presented a clear-cut issue. They had read sketchy newspaper accounts of a public hearing and of vigorous protestations of innocence by Mr. McQuade. No charges were then made against Mr. McQuade by any civic committee or any prosecuting attorney. You now tell us that you would not have voted for Mr. McQuade had you "been a resident of Kings County last autumn." Why did you not state this before the election? How could you expect the voters to reject Mr. McQuade in the absence of such courage of leadership as it was your opportunity to offer? Why did you not summon Mr. McQuade before you while he was running for his new office and demand the truth about the allegations that had been made against him? At that time the voters did not have before them any such ruling as you laid down in the Farley case, to the effect that an official who could not explain his bank accounts should be removed from public office. . . .

You purport to be profoundly shocked at our request for the removal of a public official for offenses committed before his reëlection. Your statement on this question is a patent evasion of the issue. It has support neither in law nor in morals. Mr. McQuade committed an offense for which he has indicated no repentance and, as far as we can judge, he has not turned over a new leaf nor broken with his past. His associations remain what they were in 1930, and perhaps he is still "supporting" the thirty-three relatives to whom he referred in his testimony before the Hofstadter Committee. You know, sir, that Mr. McQuade was guilty of exactly the same offense for which you removed Sheriff Farley and that he had the same unfitness for office on November 4 that he had on November 2, 1931. In the case of an offending official, your task as Governor is to judge him, not on the basis of legal technicalities, but on the grounds of moral fitness. The law in grant-

ing you the power of removal exempts you from those judicial limitations and circumscriptions which too often tend to obstruct justice in the courts.

We recognize that the power to remove an official for past offenses after his reëlection is open to abuse, but that danger of abuse is no excuse for failure to act when the moral issue is clear.

We insist that the very power of removal was given you by the Constitution of this state in order that you, as an executive and not a judge, might be free to oust an unfit public servant even when he had not committed an offense reviewable in a court of law or clear cut enough to be adjudged at the polls. . . .

You say that you are "becoming convinced" that "corruption in public office and that unfit servants in public office" are even more abhorrent to you than to us. Your record belies this boast. The Tammany brand is as clear on that record as the stripes of a tiger. You removed Sheriff Farley for his unexplained bank accounts only when Judge Seabury forced you to this action, and then you replaced the Tammany leader of the 14th District with the Tammany leader of the 15th District. The new sheriff whom you appointed still is retaining in office at this date two deputies, Curran and Flaherty, who are guilty of the same offense that caused you to remove their chief.

You have shown more indignation in attacking us than you have demonstrated against all the corruption revealed in New York City in recent months. When Judge Mancuso retired under fire you appointed Judge Amedeo Bertini in his place, although the New York County Lawyers' Association declared that Bertini was not fitted for the position of judge of the Court of General Sessions. You appointed Bertini on recommendation of Tammany leader Charles L. Kohler and Bertini promptly revealed his caliber by refusing to waive immunity before a grand jury that was investi-

gating a $100,000 transaction that followed his appointment. At the beginning of the special grand jury investigation into magistrates' courts you allowed six high officers in the Walker administration to refuse to waive immunity in regard to their unofficial acts without rebuke from you, although you must know that the sale of judgeships is unofficial and that the only legal ground for refusing to waive immunity is that testifying might lead to conviction of a crime. You adroitly evaded the responsibility for these officials' acts by rebuking them for refusing to waive immunity concerning their public acts, but you gave them a convenient loophole by permitting them to remain silent concerning unofficial acts. You pursued the same tactics recently in the Farley case when you aided and abetted the Tammany leaders who are fighting Judge Seabury by hinting that they are not obliged to testify in private hearings. Hastings and Walker immediately took your cue and announced that they refuse to testify at private hearings. . . .

Never once, during all the months in which disclosure has been piled on disclosure of the unspeakable corruption of government in New York, have you voluntarily denounced those Tammany leaders who hold power in your party and office in this community. On the contrary, you constantly consort and consult with those, your Tammany masters and managers, and use shameful ingenuity in trafficking for their good will as revealed in your communication to us. This catalog of your actions in relation to the Tammany machine in New York is not pleasant to read and is its own refutation of your claim to leadership in the work of public reform.[4]

To which any postscript would be superfluous.

Governor Roosevelt's reply to the City Affairs Commit-

tee was cryptic. He said: "If they (Holmes and Wise) would serve their God as they seek to serve themselves, the people of the city of New York would be the gainers."

The governor was playing for Tammany's support at Chicago so he postponed Walker's day of retribution to the last possible moment. He could have forced the mayor to face the music late in May, as soon as Walker had testified before Seabury, which would have allowed ample time to remove the mayor before the Democratic convention. Instead he dawdled and dodged and finally permitted His Honor to postpone his answer until July 29, two months after his public testimony. Then, when the nomination had already been secured, the White Knight of Albany took his civic conscience out of mothballs and sat in judgment over Walker. He became, as we pointed out at the beginning of this chapter, the public hero of the last act in the Walker drama.

11

TAMMANY'S LITTLE COLONEL

THE fiction that Roosevelt is a bold enemy of Tammany has a companion myth. It is that the Republican Party in New York City is a bold enemy of Tammany and that it stands for clean government. The Republican Party has nominally controlled the Borough of Queens for three years under the "reform" administration of George U. Harvey, and the borough's government during those years has been as full of scandal and incompetence as if it had been ruled directly by Jimmy himself. It is well to remember this when we are inclined to blame all the political ills of New York upon the Democratic organization.

The announcement in 1932 that the center of population of New York City was in a cemetery in Queens was greeted by the public with both amazement and amusement. Not many people had realized to what extent the city had been moving to Long Island in recent years; they had learned to think of New York as centered in Manhattan and its skyscrapers. Brooklyn, it should be remembered, is now larger than Manhattan in population, and Queens is the fastest growing part of the city.

One of the great disappointments of the Seabury inquiry was the failure to expose thoroughly the govern-

ment of Queens. For this failure we cannot too harshly blame Judge Seabury because his time and his appropriation were sharply limited. It was necessary to show definite results in Manhattan in order to maintain public interest in the inquiry. He did pillory the Democratic boss of Queens, John Theofel, most effectively only to have Governor Roosevelt dodge the issue of forcing Theofel's removal from office by pretending that the boss's underling, Surrogate Hetherington, must take entire responsibility.

Queens has been victimized by realtors and political parasites until its people are ripe for both political and economic rebellion. Its people are largely small home owners who bought houses from the makers of subdivisions at boom prices and then, when the depression arrived, found themselves in possession of little else but mortgages. Queens could yet be the most beautiful and well-planned section of New York if it had intelligent direction because it still has room to grow. At present it might be called typically American. It sprawls unevenly over a vast territory with alternate stretches of ugliness and beauty, and no central concept of development anywhere. Incidentally it is one of the finest illustrations extant of the social cost of our burial customs. If New York practiced cremation the people of Queens to-day could have as parks for the living many acres of land now consecrated to the dead.

The record of political corruption and incompetence in Queens would be hard to equal anywhere in the United

States. If we ignore the interim term of President Patten, five of the last six borough presidents of Queens have been under fire of official charges, removed from office, resigned, or ended up in prison. Maurice E. Connolly, the Democratic borough president in the first part of Walker's reign, cost the taxpayers of his borough many millions of dollars by conspiring with a sewer ring to pay extortionate prices for defective pipes. He was convicted in 1928 and sent to prison after the most desperate efforts were made to save him. W. L. D'Olier, head of a sanitary corporation, who was regarded as an important witness against the sewer ring, was shot to death shortly before the trial, and the grand jury returned a murder verdict. J. M. Phillips, head of the ring, died under strange circumstances two months before the trial.

Connolly, of course, was a friend and associate of Tammany and the failure to discover his sewer graft was a distinct source of embarrassment to Walker and Berry. The sewer contracts with their exorbitant prices for pipe had been registered in the controller's office and it was difficult to explain why some examination of them had not been made. Certainly, the fraud would have been immediately revealed if some one in the Finance Department had been willing to give the matter a little attention.

When Connolly was finally exposed, one of those peculiar accidents of journalism occurred which sometimes bring fame to dullards and oblivion to heroes. The public thought that the then Republican alderman, George U. Harvey, had been responsible for Connolly's downfall. The truth is that Harvey only entered the scene to exploit

the sewer scandal after Attorney Henry Klein had forced it before the public. Klein did not even know Harvey when the Connolly exposure began. Harvey took Klein's material and used it for charges against Connolly before Governor Smith. The history of Harvey's reputation is as curious a story of manufactured public opinion as the tale of Calvin Coolidge and the Boston police strike.

Harvey is a little man with a light voice who on occasion wears the uniform of a colonel. He has richly earned the title of Tammany's Little Colonel for he has been as faithful to the machine in all major policies as one of its own district leaders. He defended Mayor Walker warmly when the latter was under charges before the governor, and made the first move for the mayor's salary increase and the mayor's notorious bus program for Queens (see the next chapter). He was accused of being a member of an organization affiliated with the Ku Klux Klan, and the evidence seemed to us convincing. He became borough president after the sewer scandals, when the Democrats of the borough were divided, with the support of a nondescript group called Independent Democrats who were led by Martin Mager, John J. Halleran and Irving Klein.

Martin Mager, the official leader of the Independent Democrats, was convicted in December, 1929, of bartering political jobs for pay but he escaped with a $500 fine because of his health. He continued to act as unofficial leader of the group for a long time after his conviction, apparently with the friendly support of Mr. Harvey. Indeed, he was indicted again in 1931, this time for having conspired with Klein. Irving Klein, vice president of the

Independent Democrats, under Mager, who was made superintendent of highways by Mr. Harvey, finally ended his political career in 1932 when he was convicted of defrauding the city in the Rosati road-oil case. John J. Halleran, chairman of the Board of Directors of the Queens Independent Democrats while Mager was president and Klein vice president, is still Mr. Harvey's Commissioner of Public Works although he was directly involved in the Mager case by the testimony of Corporation Inspector Michael J. Lyons, and in the Rosati oil case by his admission that he had no system of checking up on the Rosati contract.

Halleran was toastmaster at a banquet of the Independent Democratic Organization of Queens on March 22, 1930, at which Martin Mager was guest of honor three months after Mager's conviction for job selling. The program of that banquet contained two poems worthy of quotation, each printed on a separate page under the portrait of its subject. Under the portrait of Martin Mager the poem read:

OUR LEADER

Our fondest respect and deep admiration,
Undying loyalty, is our obligation.
Respect, for the honest methods he uses.
Love, for the confidence he never abuses.
Efficient, honest, staunch, true to the end,
An honor to have him call you a friend.
Democratic, unassuming, personality that beams,
Enveloped in the hearts of the people of Queens.
Restoring Democracy to its proper metre.
Is MARTIN MAGER, OUR DEMOCRATIC LEADER.

The poem under the picture of John J. Halleran read:

OUR EXECUTIVE CHAIRMAN

Kindly listen voters, and a story I will tell
About a man that did his job, and did it very well,
When called upon to do a job, in nineteen twenty nine,
A task, I'm sure, which many men, would readily decline,
Because the sewers and street cleaning departments of Queens
Were in the most deplorable condition, that we have ever seen.
As head of these departments, Commissioner of Public Works,
He went right at it with a will, no duties did he shirk,
He's been there little more than a year, what else is there to say!
Just look at the improvements, those departments have made today.
And is he content, to take a rest, with the good work he has done?
He said, "Do you think those things are good? Well my work has just begun."
He organized democracy, for Independence, truth and fairness,
Of which, he's executive chairman, with belief in right and squareness.
We take our hats off to you, John, we're with you to a man,
Our efficient Commissioner of Public Works,
THE HON. JOHN J. HALLERAN.

Mr. Halleran is a strapping big realtor who may or may not be more dishonest than most realtors. He is interested in the expansion of Queens and has a considerable stake in that expansion. His brother and partner, Laurence B. Halleran, made a profit of $10,000 by selling some land

for the use of the New York Air Terminals, Inc., in connection with the closing of Old Bowery Bay Road in Queens. Supreme Court Justice MacCrate in handing down a decision against this corporation for taking the road said: "I find that the defendant without permit stole part of Old Bowery Bay Road, a public highway, with the knowledge and assistance of the Queens Borough officials." The acting borough president referred to in Justice MacCrate's decision was John J. Halleran.

Halleran and his technical superior, Mr. Harvey, stoutly defended their friend Klein through many scandals and only threw him overboard on May 27, 1931, when he had been indicted and when it became evident that their own political lives were at stake.

In the John Doe inquiry into Queens corruption in 1929 Justice Tompkins, in announcing his findings on June 27 of that year, said: "There would seem to be in this case some very sharp practice on the part of Commissioner Klein and his attorney Fred Leder. There is really no explanation—or not a sufficient one—as to why he (Klein) so suddenly revoked Leary's permit (for dumping) and then issued it again to his own attorney Leder, who is engaged in the practice of law and not in filling in private property. . . ." When County Judge Adel sentenced Martin Mager for job selling on December 20, 1929, he publicly rebuked Klein as a falsifier by saying in open court that he did not believe a word of his testimony.

In October, 1930, Deputy Controller Frank J. Prial, after hearings, found Klein guilty of placing many dead-

heads on the payroll of his department. In October, 1929, Klein was charged in a magistrate's court with accepting a bribe from a contractor. He admitted that he had received $4,000 as a "loan" in the form of $1,000 and $500 bills from a contractor whom he had never met before without giving any physical security although the contractor knew that Klein held $100,000 worth of property. This bribery charge was dismissed in a most extraordinary decision by Magistrate Simpson who later resigned under fire when Judge Seabury made an investigation of his conduct. In the face of all these scandals George U. Harvey and John J. Halleran sat unperturbed, continuing to express confidence in their friend Klein.

Mr. Harvey's great mistake had been in admitting to his administration an honest man who later exposed him. Fritz Brieger was appointed superintendent of street cleaning at the beginning of the Harvey administration but when he became familiar with the methods by which Martin Mager mulcted city workers out of a portion of their pay each week as a reward for giving them jobs he presented to Harvey charges against Mager, Klein, and Halleran, and declared that he would not continue in office with them. Finally he resigned, and opened up a fight that came to a climax in charges against Harvey before Roosevelt in May, 1931.

To anyone who studies the case against Harvey impartially, it will appear that his record in many ways parallels that of Walker. Neither of the two men violated the law in such a way that the violation could be proved, but

both men used their official position in the most reckless manner.

Harvey became a director of the New York City Airport, Inc., a creation of his aforementioned commissioner of public works, John J. Halleran, and the commissioner's brother Laurence B. Halleran. The corporation used his name widely in its prospectus and published a letter of his on official borough stationery, saying that "this enterprise should receive support because of its sound business principles." For this service he received 500 shares of stock in the corporation which had a par value of $2,500. Actually the stock became worthless because the state attorney general on complaint of the City Affairs Committee held a series of sensational public hearings in which it was demonstrated that the corporation was one of the wildest dreams of a wild era. The Hallerans admitted on the witness stand that the prospectus of the corporation was misleading and that Commissioner Halleran had "appraised" at $3,000,000 in 1929 the identical land which his brother in 1930 told the tax department was not worth $300,000. The land had been assessed in 1929 for about $69,000.

Concerning this land the company's prospectus said:

> The founders of the company, all of whom are members of the Board of Directors, are turning over to the Airport real estate ground values appraised at $3,000,000 unimproved, and $4,500,000 improved, exclusive of structures, comprising administration building, swimming pool, bargains, etc., which will cost approximately $700,000.
>
> The greatest amount of common stock which can be out-

standing is 900,000 shares of a par value of $5 each, or a total of $4,500,000, which is the exact price at which the ground value has been appraised. There are no bonds or preferred stock.

Thus it will be seen that purchasers of common stock at par will, for all intent and purpose, be buying an undivided interest in a rare tract of land at exact appraisal figures.

The stockholder who believed this appeal and invested his savings would find that $2 of every $5 went to the promoter, and that before his stock was worth a penny it had to survive the assault of a $1,285,000 mortgage on a bit of marshy meadowland worth perhaps $400,000.

Public officials are sometimes beguiled into foolish business projects because they are too busy to investigate, but this excuse will not suffice in the case of Mr. Harvey and the New York City Airport. He did not quit as a director when the truth about the corporation was made public and he retained Mr. Halleran as his public works commissioner after Mr. Halleran had admitted making the false appraisal solely for the purposes of promoting the corporation. He still continued as a director after it had become known that the promoter, William Paul Buchler, was to get $2 for every $5 share of stock sold and the founders had pocketed 250,000 shares for themselves in founding the company. They had so rigged the finances of the company that it is difficult to see how the innocent lambs who bought stock could have saved a penny of their investment if exposure had not come.

Fortunately for the stockholders the vigorous prosecution of Assistant Attorney General Paul J. McCauley

threw the Hallerans and Harvey into a panic. McCauley denounced them for misstatements in stock selling. They offered to dissolve the airport corporation and return every cent invested by the stockholders. The State accepted the surrender and issued a dissolution certificate. The promoters agreed to a stock-sale injunction—and nobody went to jail. The directors went back instead to govern a borough of one million people.

But Mr. Harvey's troubles had only begun with the smashing of the New York City Airport, Inc. Fritz Brieger brought charges against him before Governor Roosevelt, declaring that he had obtained loans aggregating $11,500 for his own corporation from a company that was then trying to sell a snow remover to the city, and that Harvey had acted as a promoter of that snow remover at the time he was receiving the loans. Governor Roosevelt in censoring Harvey for his conduct said:

> The documents before me set forth a course of conduct on the part of the Borough President which should be incompatible with ideals of official conduct. It is true that criminal dishonesty is not demonstrated. But some of the items set forth in the papers show, on the part of the Borough President, disregard for or lack of understanding of the type of official and unofficial behavior which we look for and hope to find in so important an office.
>
> It is clear that the Borough President has borrowed money for his own personally owned corporation from interests which were engaged in negotiating business transactions with the Borough of Queens. Outside of a few small items charged off for sounding out sentiment for Mr. Harvey as Governor these loans were repaid. The Borough President appears to have made no money on this transaction. . . .

While it was clearly bad taste to become indebted to interests doing business with the borough, there is no demonstration that there was an actual use of the official power of the office of Borough President in order to secure pecuniary advantage to the officeholder.

This conclusion follows with equal force from a consideration of the other major charge filed, to wit, the charge concerning the Airport Corporation, of which Mr. Harvey was a director and stockholder. It is true that he was willing to lend his name to a stock-promotion scheme of a highly suspicious nature, to write a letter of endorsement of the venture and to accept 500 shares of its stock for nothing, still there is no indication that any borough action was induced by him to assist this airport corporation in such a way that he himself would derive financial benefit. . . .

My conclusion from a study of these documents is that the conduct of the Borough President is deserving of censure, but that facts submitted do not warrant the institution of actual removal proceedings. . . .

Lucky Mr. Harvey! He accepted $2,500 of stock for becoming dummy director in a parasitic corporation and then escaped removal apparently because Governor Roosevelt's conscience in August, 1931, had not yet reached the sensitivity that it attained in the Farley and Walker cases in 1932. The governor let Mr. Harvey off with a rebuke because there was "no indication that any borough action was induced by him to assist this airport corporation." Strange that the writing of a promotion letter on official borough stationery and the use of his name and official title on promoter's literature should fall outside of the category of "borough action"!

The truth is that Queens is still blessed with Mr. Har-

vey because Mr. Roosevelt was placed in an impossible position at the time the charges were brought against the borough president. He had only shortly before dismissed the sweeping charges of the City Affairs Committee against Mayor Walker without even granting a hearing. If he had dismissed a Republican official after that without overwhelming evidence of an actual crime he would have appeared partisan—and no candidate for the presidential nomination could afford that dreadful stigma.

Meanwhile Queens will continue to be the borough which reforms without reforming. To change from a Democratic to a Republican administration is—well, it is like changing from a Republican to a Democratic administration. If Queens voters become disgusted with Mr. Harvey they may fall back into the arms of their Democratic boss, John Theofel, who still draws $8,000 as chief clerk of the Surrogate's Court. "I have never seeked a raise in salary in the office since I have been there," said Boss Theofel at a Seabury hearing. When asked to describe his onerous duties he could not even remember the names of the departments that he was supposed to supervise. The testimony read in part:

Q. What different departments do you understand they have there?

A. I am not a lawyer, Judge.

(Then he remembered the Guardian's and Probate Departments.)

Q. Well, now what other departments have you been required to supervise? Speak a little louder if you will.

A. We have the Guardianship Department.

Q. And the Probate Department?

A. Yes, sir.
Q. Now what else?
A. I can't just recall offhand, Judge, the different departments.
Q. There are other departments?
A. Yes, sir.
Q. But you don't offhand just recall what they are?
A. No.

This is the man who appoints the assistant district attorneys and magistrates and surrogates and Supreme Court judges of Queens. Also, this is the man who sells automobiles. He was the chief stockholder in Wilson Bros., Inc., run by his son-in-law, which sold high-priced cars, sometimes above the market price, to the eager customers who held public office in the borough. In the words of Seabury's Intermediate Report:

The County Clerk of Queens County bought his car from Wilson Bros., Inc.; the District Attorney of Queens County bought his car from Wilson Bros., Inc; the Borough President of Queens bought his car from Wilson Bros., Inc.; Magistrate Marvin of Queens County bought his car from Wilson Bros., Inc.; Park Commissioner Benninger of Queens County bought his car from Wilson Bros., Inc.; Assistant District Attorney Loscalzo of Queens County bought his car from Wilson Bros., Inc.; and Sheriff Burden of Queens County bought his car from Wilson Bros., Inc.

Theofel's most characteristic gesture came in the campaign of 1928 when he was treasurer of the Queens County Campaign Committee. When the committee was settling the bills, Chairman Smedley said: "John, take a thousand for yourself——"

John did.

12

CITY STREETS AT A BARGAIN

THE street battles of Tweed centered about street-car franchises, the street battles of Walker about bus franchises.

The streets of New York are now the center of an intense and dramatic fight for $70,000,000, which is the stake involved in bus franchises in Manhattan, Brooklyn, and Queens.

The operation of buses in New York is a potential gold mine. A bus requires no tracks, no wires, no conductor, no signalman, yet it moves as rapidly as a street car. Because it does not block traffic and because it operates quietly the bus is in universal demand to replace the street car. The story which we tell here of the bus franchise fight in New York can probably be repeated in a dozen American cities.

The future of New York streets belongs to buses; there can be no doubt of that. The questions still to be decided are who will own the buses and how much shall the city get for its streets. Those were the questions behind the Equitable scandal, which we have discussed elsewhere, the Queens bus fight, and the battle in Brooklyn between the City Affairs Committee and the B. M. T. The Walker

administration tried to give away the streets of New York for less than half of what they were worth. In Manhattan and Queens the uproar of opposition temporarily stopped the outrageous deals proposed; in Brooklyn the deal was concluded, but the City Affairs Committee challenged the franchise in the courts and has already won two preliminary skirmishes in the State Supreme Court and the Appellate Division.

The obvious solution to the bus problem in New York would be municipal bus ownership and operation. The Socialist Party has been fighting for this solution for a generation. It has constantly pointed out that the private ownership of public utilities keeps those utilities "in politics" because it gives the traction manipulators a motive for buying politicians. In the case of bus operation the argument for municipal ownership is especially strong. The streets belong to the city and the control of municipal bus lines is relatively simple. The nickels and dimes that passengers pay for fares can be metered beyond the possibility of substantial graft and the price paid for equipment is standard throughout the country. One bus company official of Queens made this perfectly clear in a hearing in the municipal building in 1931 when he calmly informed the public that he would make $4,000 a day net profit in Queens alone if the city granted him a franchise.[1]

The question naturally arose why a city which is complaining of high tax rates should deny itself this $4,000 a day. The immediate answer is that the city does not now have the power to own and operate its own buses, since

that power has never been granted to it under the home rule law by the Republican reactionaries at Albany. These Republicans have adopted the theory that any excess profits involved in a new industry must be the rewards of private initiative. The Tammany administration has repeatedly asked for the right of the city to operate its own buses and has repeatedly been refused. In recent years the request has been made so faint-heartedly as to arouse suspicion of substitute compensations from the big private bus interests of New York.

When the Equitable bus franchise was finally defeated in 1929, Walker set out to grant separate bus franchises in various boroughs. While small private bus lines in various parts of the city took care of immediate traffic needs by operating on temporary permits, Walker dickered with certain favored companies for ten-year franchises. His favorite in Brooklyn was the Brooklyn Bus Corporation, owned by the B. M. T. and headed by Gerhard M. Dahl, while his favorites in Queens were two local companies known as the North Shore Bus Co. and the Jamaica Bus Co. Neither one of these Queens companies could produce any reasons why they should be favored above other companies. The North Shore Company was pitifully weak financially and its president made mysterious and conflicting financial statements to various public bodies. The Jamaica concern had had almost no experience in running buses. It was controlled by Park Rowley, intimate friend of Mayor Walker, and its treasurer was Fred C. Harris who held a power of attorney

giving him access to the safe deposit box held jointly by Mayor Walker and his fugitive business agent, Russell T. Sherwood.

Mayor Walker, with the help of Borough President Harvey of Queens, attempted to divide up Queens into two sections and give the exclusive ten-year franchise in each section to one of these two favorites. Queens was in an uproar. Hundreds of citizens came to the City Hall under the leadership of vigorous local civic organizations and almost turned a session of the Board of Estimate into a riot. The opposition of these civic bodies was chiefly based on resentment against Walker and Harvey for attempting to take away the franchises from the local pioneers who had served them faithfully with independent bus lines. The City Affairs Committee produced figures prepared by Henry J. Rosner to show that the proposed Walker-Harvey franchises to the two favored companies would yield the city $535,000 a year less than the offer of an important competitor, the Nevin-Queens Bus Corporation. The committee showed that the favored companies would make 112 per cent a year profit by the Walker deal.[2]

Walker tore up the committee's statement at a public hearing and threw it into the wastebasket. He shouted the word "faker" at the Socialist spokesman, Norman Thomas. But the facts produced by the opposition were sufficiently impressive to defeat the franchises. Controller Berry refused to vote with the mayor and, finally, Borough President Harvey, frightened by the local fury

against the deal, deserted the mayor also and pretended that he had favored the local bus operators from the beginning.

This Queens bus scandal was in our opinion the clearest case in the entire Walker administration of a violation of public trust, and it would have been sufficient in itself to force out of public office every man who voted for the Walker deal. A clearly superior bid for the use of the city's streets was voted down with a loss to the city that would have totaled $5,000,000. The reason why the scandal did not play the leading part in the Seabury inquiry was that the deal was never completed. Walker could not hold his own associates in line. A block north from City Hall during the winter of 1931-32 witnesses were appearing before Seabury. All through that winter Walker continued to stand for his Queens bus favorites even in the face of an exhaustive report by Deputy Controller Frank J. Prial, which concluded that "the proposed franchises be not entered into at this time."

The deal was not finally defeated until an uproarious session of the Board of Estimate in May, 1932, at which both the authors of this book were called enemies of the public. Joseph V. McKee, president of the Board of Aldermen, who had been wavering in his decision, then decided to desert Walker also and join Controller Berry and Borough President Harvey in opposition.

So the Walker-Queens deal was defeated and, as we write these lines, the next Queens bus battle is about to begin. The franchises in Queens are still ungranted. The

Walker administration, at last thoroughly frightened, announced that bus franchises in Queens would be granted on the basis of open and fair competition. Immediately one of the two companies which Walker had favored offered the city two and one-half times the percentage of receipts which Walker had formerly accepted as adequate. It was evident to everybody then that the mayor had been trying to give away the city's streets for a song and had been caught flat-flooted. Even after the franchises to favorites had been defeated the Bureau of Franchises produced a "financial" report in the summer of 1932 disqualifying the Nevin-Queens and several other companies and approving the favorites, among others. It showed the most brazen favoritism in applying to various companies the financial tests which all bus companies are supposed to meet. Accordingly there is no guarantee that because Walker was caught flat-footed in 1932 his associates will not repeat the same type of deal in 1933. Walker did not act alone in the Queens bus scandal. John H. Delaney, looking like a Presbyterian deacon, acted with him, and so did Joseph V. McKee, until he saw that the course was too perilous.

If these men are still in office when this book is published they will be called upon to explain their action at a certain meeting of the Committee of the Whole of the Board of Estimate which took place on April 19, 1932. Originally Walker's two favorite bus companies in Queens had not offered the city any share at all in their profits outside of the usual 5 per cent of revenue, and both

Delaney and McKee had accepted the deal complacently. Then when the Nevin-Queens Company offered 50 per cent of all profits above 6 per cent in addition to the usual 5 per cent of gross, and the public uproar had blocked the original steal, Delaney sought to save the mayor's face by coming forward with a more reasonable deal. On April 6, 1932, he advocated a Queens franchise that would give the city half of all profits above 6 per cent *after the first two years of operation.* (The Nevin-Queens Co. offered half of all profits above 6 per cent *from the beginning of operation.*) He could not get Walker's favorite companies to accept even this compromise, so on April 19 he presented a revised contract to the Committee of the Whole of the Board of Estimate which would give the city half of all profits *above 8 per cent, instead of 6 per cent, after three years instead of two.* The difference to the city between the offer which Delaney favored and the Nevin-Queens Co. offer was $2,250,000. Mr. McKee sided with Delaney in support of the lesser offer. What hold did these two Queens companies have on the administration to force such a public surrender at the very height of the Seabury investigation?

The difficulty of removing unfit officials from public office is illustrated by this Queens bus case. In private life a trustee of an estate who sells a piece of property for $1,000 when he could get $2,000 would be promptly removed. In municipal affairs a subterfuge can almost always be discovered to disguise the real character of an act of betrayal.

In the case of the Brooklyn bus franchise the Walker administration escaped a great scandal chiefly because there was not sufficient local uproar to force the situation on to the front pages of the newspapers. The franchise was actually granted to the Brooklyn Bus Corporation, a subsidiary of the B. M. T., on June 4, 1931, on a basis that would yield 150 per cent profit while a superior bidder was disputing the claim, and newspapers of New York were too busy with other scandals to dig out the basic story. The City Affairs Committee, whose representative was prevented from speaking at the last public hearing on this franchise, took the case to the courts where its counsel Louis Waldman produced some astonishing figures to show how the city had been mulcted. He pointed out that the offer of a competing company had been ignored although it was $200,000 better than the offer of the B. M. T. He produced a table of profits under the franchise based largely on the studies of the well-known bus engineer, A. Joseph Hoffman, which showed that the B. M. T. stood to win $14,877,000 in ten years on a maximum investment of $1,325,000.

The question occurred to many citizens whether this was the kind of friendship with the public that Gerhard M. Dahl, chairman of the board of both the B. M. T. and the I. R. T., had been paid to maintain. He had been paid handsomely enough and somebody had produced handsome results. When he was called to the witness stand by Judge Seabury and asked how much he had been paid as a bonus for "improving relations with the city," the Re-

publican majority on the committee balked Judge Seabury and blocked further questions. The truth finally came out when one of the authors who owns one share of B. M. T. stock exercised his legal rights as a stockholder and discovered that Mr. Dahl received during 1928, 1929, 1930 and 1931 $675,000 in salary and bonuses, probably a higher compensation than that received by any railroad president in the United States. The stockholders of the B. M. T. had apparently received no specific information concerning this unusual generosity at their general meetings. They had perfunctorily approved all the actions of their directors at routine sessions where general resolutions of approval had been introduced, and there was nothing in the resolutions of approval to indicate the compensation received by Mr. Dahl.

Mr. Dahl's huge income underscored the sorry failure of public regulation. Here was a great public utility fighting for the seven-cent fare and working many of its employees seven days a week ten hours a day, yet able to pay its chairman $100,000 a year in salary and a $75,000 bonus even in years of depression. And the State Transit Commission which is supposed to approve and regulate all transit companies in New York, could not touch a nickel of Mr. Dahl's compensation, could not even ascertain that compensation, because Mr. Dahl *is hired by a holding company and the state can regulate only operating companies.* Mr. Dahl does not directly help to move a wheel on the traction lines which his gigantic holding

company, the B. M. T., controls through operating subsidiaries.

Usually when such holding companies milk the consumers, workers, and small stockholders their legal methods are unimpeachable. Happily the B. M. T. has made a serious blunder in getting its virtual monopoly of bus operation in Brooklyn through the franchise of the Brooklyn Bus Corporation. It overlooked section 74 of the city charter which was written after several great traction scandals with the specific purpose of preventing the kind of thing that has happened in the case of the Brooklyn bus franchise. Section 74 which is a sort of consumers' Magna Charta says: "The Board of Estimate and Apportionment shall make inquiry as to the money value of the franchise or right proposed to be granted and the adequacy of the compensation proposed therefor, and shall embody the result of such inquiry in a form of contract with all the terms and conditions, including the provisions as to rates, fares, and charges."

The city has never made an inquiry as to the money value of the Brooklyn bus franchise and has never published an estimate of that value. It has put into the franchise the required figures on fares without ascertaining how much the cost of operation or the total profit would be. So it has sold a franchise worth over $14,000,000. for a little more than $2,000,000. If the City Affairs Committee wins its pending suit to annul this franchise the city could then offer the franchise anew to the highest

responsible bidder and recapture for the taxpayers five to ten millions.

A study of the bus record of the Walker administration shows clearly that its neglect of public interest has been deliberate. It has produced pounds upon pounds of official reports on bus franchises and has always managed to avoid the one central fact that would reveal its stake in the spoils, namely, the money worth of bus franchises. In 1926 Mr. Delaney labored and brought forth the huge Sixth Report of the Board of Transportation on Omnibus Franchises, which was supposed to be an economic guide for the city in its dealings with the bus industry. It not only neglected the all-important problem of franchise money-values but it misstated the whole financial problem of organizing a bus company.

Starting a bus line in New York City, if the necessary permits are secured, is a very simple thing financially. The operator needs only $2,500 for each $10,000 bus and $1,000 extra per bus for working capital. All the other costs are eagerly advanced by the bus manufacturer who gives $7,500 credit on each $10,000 bus and allows four years to pay it. The B. M. T. can buy buses without any down payment at all.

Mr. Delaney in making his "studies" of the bus industry did not take these facts into account but reckoned the entire investment of bus operator and bus manufacturer as necessary capital outlay upon which a bus company could rightfully earn as much as 22 per cent in perpetuity. Why a bus operator should be allowed to earn any profit

upon a bus manufacturer's investment is more than we can understand, and why it should be permissible to earn 22 per cent when courts are setting 8 per cent as a fair return on a public utility investment is a riddle that Mr. Delaney should be called upon to solve.

Delaney, like Walker, has heard his master's voice and so has failed to fight for a constructive city bus policy. He could have had a municipal bus system in operation by this time if he had worked half as earnestly for it as he worked for the Equitable Coach Company.

As a holding company the B. M. T. is an amateur compared to the corporate octopus which is now seeking a bus monopoly of Manhattan, the New York Omnibus Corporation. This company is the local arm of the corporate hierarchy which is best known in New York as the Fifth Avenue Coach Company. The top of the hierarchy is controlled by four Chicago business men whose removal from the operating companies puts them in a position to escape local regulation and at the same time to milk those operating companies through parasitic intermediaries. The story of the success of this bus combination is amazing.

At the top of the combination is the Omnibus Corporation of Chicago which is controlled by a voting trust held by seven trustees, four Chicagoans and three New Yorkers. The Omnibus Corporation owns the Fifth Avenue Bus Securities Corporation, which owns the New York Transportation Company, which owns the Fifth Avenue Coach Company, which owns the New York Railways

Corporation. The New York Railways Corporation owns a whole nest of feeble and half bankrupt street car companies including the Bleecker Street and Fulton Ferry Railway Company, the Broadway and Seventh Avenue Railway Company, the 23rd Street Railway Company, and the 34th Street Crosstown Railway Company. As far as actual service is concerned, the New York Transportation Company, the Fifth Avenue Bus Securities Corporation, and the Omnibus Corporation are simply leeches upon the Fifth Avenue Coach Company, since the coach company passes on its earnings to the upper members of the hierarchy without getting any considerable service in return. The New York Transportation Company, the Fifth Avenue Bus Securities Corporation, and the Omnibus Corporation are drones which pay dividends out of the earnings of the working bee, the Fifth Avenue Coach Company.

The various corporate members of the hierarchy have approximately the same boards of directors. The pathetic street car companies at the bottom of the hierarchy are paupers, but the upper members of the hierarchy are not obliged to come to their assistance, and continue to declare enormous dividends out of the profits of the Fifth Avenue Coach Company while asking privileges from the city for the railway companies because they are virtually bankrupt. The Transit Commission has no power to go behind the Fifth Avenue Coach Company in this hierarchy because it can regulate only operating concerns.

Courts have commonly ruled that a public utility is

entitled to an 8 per cent return on investment, but the Fifth Avenue Coach Company, whose stockholders' original investment was $50,000, has received $3,600,000 in dividends in the last eight years, an average return of 950 per cent annually on its original investment. The company's officials have admitted that the stockholders never put a dollar into the company except the original $50,000 and the earnings thereon. In defense of these astounding dividend figures it is contended that the company plowed back its dividends over a long period of years, since no dividends were paid prior to 1923, but this contention is nullified by the fact that the company's surplus and fixed capital have increased far in excess of any normal dividends which might have been plowed back into the company. If the company had started at the beginning of its existence and plowed back 10 per cent dividends every year, paying dividends upon the plowed-back dividends, it still would have been worth only $600,000 in 1923 when it started its big dividend splurge. Actually it was worth approximately $8,000,000 in 1923.

The stockholders invested only $50,000 in the company and all subsequent additions to the capital have come from the dimes of New York passengers. These dimes have not only given the stockholders almost 1,000 per cent dividends in recent years, but they have piled up a surplus which totaled $10,780,613 in 1930. In 1930 the company actually earned almost one and one-half million dollars, since it declared a dividend of $500,000 and put $994,000 into its surplus.

In the lean years when dividends were not being paid the loss of dividends was more than balanced by tremendous increases in fixed capital. Even during recent years, when prodigious dividends have been paid, the fabulous appreciation in the fixed capital of the corporation has continued. During the eight years past when the company has paid an average dividend of 950 per cent on its actual investment, its capital value has doubled.[8]

There is one fly in the ointment of the Fifth Avenue Coach Company, however. Its legal claim to operate buses on Manhattan streets is not at all clear and the city is now at last contesting that claim in the courts. According to the reports of John A. McCollum, Chief of the Division of Franchises of the Board of Estimate and the 1917 report of Lamar Hardy, the Fifth Avenue Coach Company received its franchises originally through a legal blunder, since it applied for these franchises as a business corporation whereas it should have applied as a railroad corporation. The legislature attempted to rectify this blunder by a special act but, according to Mr. McCollum, the act itself was an unconstitutional grant of a special privilege. If Mr. McCollum's opinion is accurate, at the present time 46 per cent of the Fifth Avenue Coach Company's lines are illegally operating under the legislative grant, 16 per cent are operating by revocable consent, and 25 per cent are operating with no consent or franchise whatsoever. This leaves only about 13 per cent of the present franchises held by this company which are not questioned by the city.

Behind these Fifth Avenue Coach franchises lies a network of old street-car franchises, some of them perpetual and some of them bought by bribery in the days of Tweed, now reposing in the hands of the new bus hierarchy by virtue of its purchase of the New York Railways Corporation. A fascinating history of New York capitalism could be written about these franchises. Most of them do not have a going value of one penny but they have been bought up by the bus hierarchy at a bargain because of their nuisance value. A street-car company may be losing money steadily and still have a certain practical value if it possesses a perpetual right to New York streets. It can demand a good price to get off the streets and permit the operation of buses, or it can demand valuable bus franchises for itself.

This latter demand is now being made upon the city by a collection of half-bankrupt street-car companies which have been gathered together by the bus hierarchy. These companies, subsidiaries of the New York Railways Corporation, have applied for the right to motorize their lines and get both longitudinal and crosstown bus lines under franchises which would yield them 145 per cent profit, about $2,066,000 annually on an initial investment of $1,431,500. One of their claims to these franchises is that they have certain ancient and heavily moist street-car securities which they may "sacrifice" for eleven millions of capitalization in the new bus monopoly. The city is in an embarrassing position because some of the street railway companies can stubbornly hang on to their ancient

perpetual franchises a long while and still make enough money to pay operating expenses.

We of this generation are now being asked to pay for the city's recklessness in the days of Tweed and before. We are refused the right to have municipal operation by the state law and we are prevented from starting with a clean slate and granting the Manhattan bus contracts to the highest bidder because of franchises, many of which were purchased by bribery in the days of Tweed. If in the early days the profits of the street-car lines had been fairly distributed, much of the present outstanding stock would never have been issued and no one would now be attempting to foist it upon the present generation. For many years the companies which later united to form the New York Railways Corporation were milked by insiders who controlled subsidiary lines and holding companies. In some cases the subsidiary lines were rented to holding companies for more than their total annual revenue. The overcapitalization goes back to Civil War days. In the period after the Civil War electric car lines which should have been capitalized at not more than $40,000 a mile were forced up a Jacob's ladder of heavenly finance until they reached the peak of $2,000,000 a mile in 1903.[4]

One bond issue of $700,000, a fraction of which the City of New York is now asked to validate, may be used as an illustration of the way in which fake services have been saddled upon the city and later investors as real obligations. Its history has been traced by E. Michael White. It is the 4% bond issued in January, 1865, by the

Bleecker Street and Fulton Ferry Line which later became and is now part of the New York Railways Corporation structure. That bond never did represent more than $268,000 of real investment. The other $432,000 of the $700,000 together with $900,000 worth of capital stock were distributed to insiders for the franchise of this Bleecker Street Line which the city gave away for nothing. That $700,000 bond had paid $1,828,000 in interest on an actual outlay of $268,000 up to July 1, 1931, when the first default in interest payments took place, although part of the line had been abandoned for many years.

According to the prevailing ethics of capitalism the men who are now trying to get a bus monopoly in Manhattan are quite irreproachable. Some of them are capable administrators, and here and there among the security holders can be found the usual widows and orphans in whose name any exploitation of the public is excused. The genuine investors who made a sacrifice to purchase securities are now inextricably tangled up with the piratical insiders who contributed nothing. The big financial manipulators at the top of the bus hierarchy are no more parasitic than most of the owners of U. S. Steel or A. T. and T.—their misdeeds are simply better advertised because they are manipulating a public utility which must make some of its contracts in the open.

Fortunately there are three factors favorable to the city in the present fight against a Manhattan bus monopoly for the Fifth Avenue Coach Company. Both Controller Berry and Joseph McKee are opposed; the legality of the com-

pany's present franchises is in dispute; and a formula for municipal operation is possible.

The formula for municipal operation is this. The city is not allowed to inaugurate a municipal bus system itself, but under section 73 of the city charter, it may recapture a bus line by paying adequate compensation and operate it thereafter. Thus far Tammany has made no use of this power. It has stuck stubbornly to definite-term franchises, which would block the efforts of the city to include the buses in a comprehensive municipal transit system. We believe that a unified municipal transit system is the only sane way out of the present bus tangle and we believe that the logical next step toward that end would be the granting of terminable franchises only, and then only to the highest bidder, so that the city might take over the system at the earliest practical moment and get the maximum return for its streets. Such a municipal bus system is doubly important in view of the pending move for city-wide transit unification.

13

RACKETEERING IN LAND

We have pointed out that the corruption of New York political life can be traced back in large part to the practices of our business world. Mayor Walker, if his own story is to be believed, gambled in Wall Street with Paul Block and cheerfully took $246,000 from his friend without a qualm because he lived in an atmosphere of speculation where such things were part of traditional conduct. Among his friends no stigma was attached to getting something for nothing as long as the larceny laws were avoided.

This wholly uncritical attitude toward money made by speculation in Wall Street is even more evident in the conservative politician's attitude toward land values. Everywhere in America local politicians acquire their fortunes quite largely by speculating in land, and no sense of guilt disturbs their consciences. The realtor is America's typical business hero. He creates almost nothing. He shrewdly studies the changing currents of population, directs those currents on occasion by tremendous ballyhoo, and steps in to take for himself the increment created by the influx of the crowd.

New York City is the most perfect model of the real-

tor's heaven. The little strip of land called Manhattan Island, which was sold to Peter Minuit for $24 three hundred years ago, is now assessed at more than five billions. The land in the whole five boroughs of Greater New York was "worth," in 1930, $8,731,778,851—that is to say it was assessed at that amount and probably had a market value of ten billions.[1]

The people of Peter Minuit's little island pay fortunes to the owners of the island for its use. Some of our greatest New York fortunes, such as the Astor fortune, were made largely by sitting tight (or cruising on yachts) while the millions crowding into New York increased the land values. For a time New York City land increased in value at the rate of $600,000,000 a year. The most conspicuous unearned fortunes have been won by the holders of certain "golden corners" in Manhattan. The land on which the Stock Exchange was located was assessed at $500 a square foot—we speak in the past tense because, as we write this book, a movement is on foot to reduce assessments one to three billions. One realtor in the boom years claimed that the land on the northeast corner of Fifth Avenue and Forty-second Street was "worth" $36,000 per front inch. Of course he never persuaded any one to agree with him. The land on which the Empire State Building is located, which sold for less than $10,000 a hundred years ago, was valued at seventeen millions before the depression began.

The size of the toll extracted from the productive workers of New York by the land-owning class can best be

appreciated by imagining that the first settlers in New Amsterdam had been Socialists and had imposed upon the whole region a Socialist system of land tenure under which the users of land leased their plots from the government. (The community, of course, has the natural claim to land since no person's labor has created it.) If that had been the case, the people who live in New York would have had few tax worries, for most of the costs of government would have been covered by land rentals. Many of the great unearned fortunes that form the basis for cruel snobbery would never have been created. The city would have been planned to give the maximum of light, air and happiness to its inhabitants rather than to increase the profits of downtown landholders.

These imaginative reflections are not, of course, new. Henry George, when he ran for mayor of New York, told the people what private land speculation cost them and advocated the single tax to recapture for the community the values of the land which the community created. He made a profound impression upon his generation, the young Samuel Seabury being included among his disciples. Given our system of private ownership of land the corruption of New York politics by land speculation is inevitable. The average American would be disgraced in the eyes of his fellows if he knew in advance of a coming increase in the value of a certain plot of land and did not take advantage of that knowledge. The Tammany politicians, in harmony with American morals, have worked out a system of advance knowledge and under-

cover manipulation that deserves to be called a land racket. It was partially exposed in the years 1927 to 1930 by the Citizen's Union, the City Affairs Committee and Controller Charles W. Berry. Its final exposure came in the report of Leonard M. Wallstein, as a special corporation counsel, on land condemnation in January, 1932.

The law says that when the city government wants a certain piece of land for a school building, a court house, or a street it may condemn the land for a public use and compel the owner to sell it. The owner may negotiate for the highest price obtainable with the Finance Department or he may refuse that price and appeal to the State Supreme Court to set a price. The procedure sounds innocent enough and would be innocent enough if our city fathers were men who could keep secret their plans for a public improvement and if the judges who preside in our Supreme Court were not land gamblers in their philosophy and good friends of Tammany realtors.

New York was shocked in 1930 when the City Affairs Committee announced that it had made a study of the cost of land bought by the city for school sites from 1925 to 1928 and had discovered that the city had paid 3.2 times the assessed value of these sites, although the assessment officers were sworn to value each piece of property to the best of their ability at its true market value. Figuring the excess expenditure over market value on school sites as typical waste, the committee estimated that New York citizens were losing about $29,000,000 a year on the condemnation racket. They pointed to the site of the public

school at 115th Avenue and 201st Street, Queens, which was sold to the city for thirteen times its assessed value, and to several other school sites which were sold at six, seven and eight times their assessed value.

These revelations came shortly after Justice Dunne had awarded $12,500,000 to certain Rockaway Beach property owners for land which was assessed at about one-tenth of this price when the project was authorized in 1924.[2]

Mr. Wallstein in a long series of hearings and in a subsequent report, showed the public how it is highjacked out of millions of dollars every year by a ring of real estate dealers, city land "experts," condemnation lawyers, judges and political bosses. Through the activities of the ring the city threw away during the boom years of 1926 to 1930 at least $20,000,000 a year. The ring was not an illegal conspiracy as the ring of lawyers and bail bondsmen in the Magistrate's Court was. It was, and is, a group of sharp-practicing lawyers who got advance tips from insiders in city departments, solicited trade from the land owners on a percentage basis, and proceeded to win from indifferent judges and mildly protesting representatives of the city awards that were tantamount to a raid upon the public treasury. The exposure of the racket indicated how futile our criminal laws are in the case of established exploitation. A judge who sends a thief to jail for stealing an apple will calmly award a lucky land owner five times the assessed value of his property without any careful examination of the owner's claims, and the city may lose the price of a million apples.

In the case of the Libby Hotel and the Chrystie-Forsythe Street widening, Justice Philip McCook awarded the owners $2,850,000, although shortly before this event a corporate mortgage had been foreclosed on the hotel with the contention that the site was valueless, causing the stockholders to be wiped out.

The city government is involved in the condemnation racket in three ways, through political leaders who sell undesirable land to the city at a high profit, through city officials who trade on their inside knowledge of construction plans, and through Tammany realty experts who get prodigious fees for overvaluing land to be purchased. Pink-cheeked, benevolent Boss McCooey of Brooklyn, for example, apparently made $69,656 profit on a Brooklyn school site located across from some gas tanks, as revealed in hearings before Mr. Wallstein.

He worked through a business associate named Charles D. Cords who bought certain pieces of land in Bay Ridge at 5th Street for $57,500 with the help of a $15,000 loan from Mr. McCooey, whose name did not appear as owner. A committee of the Board of Education was looking for a school site, and the committee, naturally enough, included some good friends of Mr. McCooey. On its first trip of inspection, however, it apparently did not know that Mr. McCooey was interested in the Cords' property, so it recorded a frank opinion in its field notes about another site that was two full blocks away from the gas tanks: "Too near the gas tanks—Out." But on a later field trip the committee included Miss Margaret J.

McCooey, a sister of the Brooklyn boss and one of the superintendents of our school system. The report on the Cords' land was more favorable. In fact, the Board of Superintendents with Miss McCooey present, finally concluded that the Cords' property, situated in the middle of gas tanks, incinerators, heavy industrial traffic, and a sparsely populated neighborhood, was "especially adaptable to school purposes."

But the parents of the locality raised such a furore that the local school board of District 36 in Brooklyn was moved to protest against the site to the city Board of Education. Mr. McCooey was undismayed. He called in the chairman of the local school board who was the recording secretary of the Ninth Assembly Regular Democratic organization and converted him on the spot into an enthusiastic proponent of the gas-tank land. He called in the secretary of the local school board, a Miss May Golden, with equal success. He was quite frank about the basis of this success. It was not sex appeal. It was "friendship." Mr. McCooey had gotten her brother appointed a magistrate. "I would start off with this premise," he confided, "that inasmuch as I had a great deal to do with the appointment of her brother as magistrate, that she naturally would be friendly to me if I wanted her friendship for this site." His premise was correct.

The local school board reversed its position and begged the Board of Education to use this choice land. Dr. William A. Boylan, since promoted to the presidency of Brooklyn College, and Dr. William J. O'Shea, the pliant

gentleman who now presides over New York's public schools, heartily favored the site and Dr. Boylan pushed it before the Board of Estimate with the declaration that the property had "a delightful outlook." In spite of some unpleasant remarks by the Controller the city finally took title and the question of price went to the courts.

The judge in the case was Mitchell May, a regular machine Democrat and friend of McCooey. The city's real estate expert, Edward J. Gaynor, who had known Mr. McCooey for twelve years and had been appointed an expert for the city with McCooey's recommendation, valued the whole piece of land at $264,000, more than three times the assessed valuation and $120,000 higher than the valuation of the controller's office. Of course the Cords-McCooey experts shot higher than Mr. Gaynor to establish the well-known principle of balance, and set their estimate at $353,000. The assistant corporation counsel representing the city, who had been approved for his appointment by Mr. McCooey, handled the experts with a perfunctory gentleness, forgetting to bring out the fact that neighboring lots were selling for about half of what the claimants were asking. Justice May tolerantly split the difference and set a price of $303,000. A touch of lovely charm was added to the whole proceeding by the revelation that Mr. McCooey's profit in the deal was a wedding anniversary gift to his wife! [8] Incidentally, the land still stands idle, since no one wants to use it for school purposes.

Mr. Wallstein's investigation also revealed that certain

positions in the offices of the Board of Education and the Board of Estimate have been used as listening posts for acquiring advance knowledge of city purchases. Usually the listening posts are handled with such caution and the connection with the land racketeers is so carefully camouflaged that no one can be convicted of a crime. The favorite device for land manipulation is a small corporation with an innocuous name created by the inside politicians and realtors to buy up land in anticipation of a demand for it by the city. Usually the corporation is controlled through dummies or relatives.

Francis T. McEneny was removed as chief examiner to the president of the Board of Aldermen after it was discovered that he and his friends had engaged in "substantial and apparently profitable transactions in connection with school sites," and his crony Morris Warschauer was transferred from his position as secretary of the committee on buildings and sites of the Board of Education for similar reasons. But Mr. Warschauer is still assistant secretary of the Board of Education after making explanations of his bank accounts that Leonard M. Wallstein called "fantastic," and Perry Winston is still assistant engineer on the staff of the secretary of the Board of Estimate after it was disclosed that his friends had made handsome profits by dabbling in school sites and then thrown away their check books and canceled check vouchers. Mr. Winston gets advance knowledge of the plans of the Board of Education for all its new buildings. Just before he recommended a school site on 23d Avenue in Brooklyn

some friends of his brother-in-law organized the Ralmac Realty Corporation which sold the recommended land to the city at a profit of $13,000 in ten months on an investment of $12,000. At about this time the sister of Mr. Winston's brother-in-law (the women of this family are also brilliant business promoters) was making $20,000 on a cash investment of $4,000 in the site of the Abraham Lincoln High School. This high-school site, incidentally was assessed by the city's tax experts at $321,800 but when the city attempted to buy it the city's own real estate expert, Charles Schiffman, valued it at $300,000 higher than the tax valuation, which explains in part the astonishing success of the distant relatives of Mr. Winston in the real estate business.

Mr. Schiffman received $4,600 as an expert's fee for his optimism in valuing this land for the Abraham Lincoln High School and a rebuke from Mr. Wallstein for improper business dealings because he helped to get a loan for some of the claimants in this very case from an assistant corporation counsel.[4]

We should not be unduly severe in judging the McEnenys, Warschauers, Winstons and Schiffmans. Perhaps they believe that there should be more business in government. The almost universal rule in big business is for the insiders to take advantage of what is called "business opportunity," which means foreknowledge of dividend statements and purchase needs.

The expert racket dovetails into the condemnation lawyer's racket. The important condemnation cases in the

city are handled by the firms of Talley and Lamb, and Skinner and Bermant. Alfred J. Talley, the big gun in condemnation proceedings in New York, was a close associate of Charles F. Murphy and was urged as a possible successor to Murphy in the leadership of Tammany Hall in 1924.

The condemnation law firms actively solicit business from owners of prospective city land "like salesmen selling lead pencils and suspenders," as one witness testified in the hearings before Mr. Wallstein, although this solicitation is specifically forbidden by a court rule which applies to Manhattan and the Bronx. The rule says: "No attorney shall directly or indirectly solicit a retainer or employment to present, settle, prosecute or defend any claim or action, or employ or authorize any person so to solicit on his behalf." Far from observing this rule the law firms of the city swoop down like vultures on the land owners of any neighborhood where a civic improvement is planned, sometimes fifteen years in advance of actual sale, and "sign them up" in a house to house canvass with an agreement that the law firm shall receive 5 per cent of the total award. That means, of course, $50,000 for a million dollar award which can often be secured from friendly courts with very little labor.

The labor, in fact, is nearly all in getting the clients and holding them together. The actual condemnation cases are perfunctory affairs. The claimants have an expert who has become known as a professional optimist. The city has an expert who is only slightly less optimistic.

Both are paid handsomely for brief service; the city usually pays its experts $100 a day, and in the Chrystie Street condemnation case their bills totaled $124,065. In that case Nicholas F. Walsh received $40,000, Samuel Augenblick, $40,000, and Walter T. Murphy $32,000 as city land experts. In the Rockaway Beach condemnation case Congressman John J. Boylan who represents John F. Curry's district at Washington, included in his $39,000 bill to the city five days for "attendance at court" which, according to the Congressional Record, he had spent in Washington.[6] Part of his bill was disallowed but he still kept a nest egg of $200,000 which he had received as an expert in condemnation cases between 1924 and 1930.

The experts in the past have not been permitted to bring in to condemnation proceedings the assessed value of the property to be bought although such value is the only index which the city can use in deciding to purchase the property, and they have likewise been prevented by idiotically narrow court rulings from bringing in the most pertinent evidence of all, the recent sales price of the property to be bought. In some states assessments are bad barometers of value but not in New York City, since the state equalization tax tables show that here the assessed value of property comes very close to the market value.

The story of the way in which New York Supreme Court judges have refused to permit assessed value to be noticed judicially in condemnation cases is to us one of the most startling proofs of the dry rot in our legal profession. Because some judges had misinterpreted the law on this subject, succeeding judges and succeeding lawyers

fell in line and duly quoted their predecessors' foolishness. The aim of a condemnation proceeding, to determine actual value, seems to have been quite lost sight of.

When the experts had finished their testimony in a condemnation case, the judge, who may or may not have been listening to the proceeding, usually "split the difference" between the competing optimists. Mr. Wallstein just for fun tabulated 164 of these split-the-difference decisions on school sites and found that the judges in making twenty-five million dollars worth of judgment came within seven hundredths of one per cent of splitting the melon exactly in half. To suspect collusion in such cases would be as irreverent as to question the conspicuous guilelessness of the average New York divorce case.

Mr. Wallstein has suggested a number of reforms for condemnation proceedings and some of them have been adopted at Albany. Condemnation proceedings, as soon as another legislature has approved a pending constitutional amendment and the people have voted for it, will be taken out of the hands of a single Supreme Court judge and given to a special condemnation tribunal of three judges to be periodically assigned by the Apellate Divisions. Assessed valuations may be considered by judges and must be considered by the Corporation Counsel who represents the city. More complete publicity is provided for.

All these reforms are good in themselves and Mr. Wallstein deserves the public's thanks for initiating them, but he would probably be the first to admit that they will be useless unless there is some honest will to serve the public

interest in the government that rules New York. And in this case the reform legislation will be handicapped by one of the oldest traditions of American capitalism, the allocation to private owners of the increased value of land.

A proper philosophy and practice of taxing land values would solve all these problems. The trouble starts when the community allows a land owner to keep the land value which it (the community) has created. Realtors will continue to be economic highwaymen as long as they are honored in proportion to their success in capturing these values. Judges will consistently give the benefit of the doubt to private speculators rather than the government in the purchase of land until our ethics of land ownership have changed. What we need, if Mr. Wallstein's reforms are to have more than a temporary effect, is more judges on the bench who have read Karl Marx and Thorstein Veblen and Henry George, and taken them seriously enough to understand that there is a difference between earned and unearned wealth. Which is to say that we need more socialist and fewer conservative judges. Incidentally, we are not sure that Mr. Wallstein himself would make the very best judge. He saved the city $4,459,000 in the Rockaway Beach condemnation case, then took a $160,000 fee for himself in addition to heavy expenses for a few months' work. His criticism of the land racketeers lost some of its force thereby.

Meanwhile New York's transit construction program has reached an impasse because the city government did

not undertake to pay for subway construction out of the unearned wealth of the land owners along the subway lines. There is no reason why taxpayers as a whole should pay for all subway costs when specific pieces of land are trebled and quadrupled in value by the subway. These specially benefited pieces of land should be stripped of their extra unearned increment added by the construction of the subway, especially since the extra expense involved in building subways rather than elevated railroads is incurred chiefly because the elevated would injure land values along its course. At present 82 per cent of the cost of new subways is added to the burden of the taxpayer.

John H. Delaney, chairman of the Board of Transportation, originally favored special assessments to aid in building the new Eighth Avenue subway but the pressure of the real estate interests was too strong for him. The idea of special assessments for subway construction is sound and practical if properly applied—just as sound and practical as the special assessment for park and road construction. It was heartily endorsed by Mayor Walker's own committee on budget and finance in 1928. The committee felt "that the location of new subway lines and particularly the location of stations result in an entirely fortuitous gain to the owners of certain pieces of real estate. This gain might be recovered through the adoption of the special assessment method."[6]

New York's first subway, started in 1904, might have been paid for entirely out of special assessments upon

benefited land without any injustice. That subway which cost $43,000,000 added $80,000,000 in value in seven years to one section of Manhattan and the Bronx in excess of the increase which was considered normal in the city as a whole. The increases in the value of land adjoining other subways have not been so consistent, but they have been sufficient to underscore the need of special assessments. Certainly a large part of the city's investment of $386,000,000 in the old subways could have been captured quite painlessly by special assessments.

The City Affairs Committee made a study of the increase in land values along the new Eighth Avenue subway from 1924, when it was first announced, to 1930, two years before it opened. The committee's figures for the thirty blocks from 13th Street to 43d Street show that the two adjoining blocks on each side of the subway rose $94,000,000 in value in that time, an increase of 78 per cent. The general rise in land value in the rest of Manhattan was 64 per cent during those years. It is very conservative, therefore, to say that the subway itself added $17,000,000 (the difference between 78 per cent and 64 per cent) in excess value to the Eighth Avenue region between 13th Street and 43d Street from 1924 to 1930—very conservative because, while this method of calculation is not accurate in itself, the subway also added millions in value to the blocks west of Ninth Avenue, which we are not including in the total increment. The subway between 13th Street and 43d Street cost $21,000,000. If $10,000,000 of its cost had been paid by special assess-

ment, the owners of the adjoining land would still have had a handsome margin of excess increment.

It is not too late to apply this principle even now to the Eighth Avenue subway, and it is certainly in order to apply it to the construction of all new subways. We believe that it is the only logical way to save the five cent fare on New York transit lines. The objection commonly made to special assessments for subway construction is that the increase in value due to such construction is impossible to calculate in advance, the factors involved being so complex. The logical way to avoid this difficulty would be to adopt an adjustable special assessment which can be increased or decreased on each specific piece of land according to its rise in value.

If, for example, the city in building the Eighth Avenue subway between 13th Street and 43d Street, had decided to assess ten millions of the cost on neighboring land, it could have drawn a line about the territory it considered specially benefited and then based its assessment year by year on the assessed value of 1924. Let us say that it took $1,000,000 a year out of this area. Each annual levy would be based on the rise in value of the land since 1924. All land which had failed to rise since 1924 would be exempt. A piece which rose $10,000 in 1925 might pay $100; a piece which rose $20,000 might pay $250; a piece which rose $30,000 in 1925 and went back $20,000 in 1926 might pay $375 in 1925 and $100 in 1926; and so on. This system of adjustable special assessments is applied now to the Westchester County sewer system. It avoids

the immense difficulty of calculating in advance the precise increment that the subway will add to any given lot.[7]

If this method had been applied roughly to New York land many years ago there would be no difficulty in financing subways to-day. In the last twenty-five years two sections of Manhattan, the financial district below Fulton Street, and the mid-town section around the Pennsylvania Station and the Grand Central Terminal have increased a billion and a quarter dollars in value.[8] In both cases the new values have been due very largely to good subway facilities. These areas have paid higher taxes because of the higher values, but they have not paid their fair share for subway construction in view of the immense increase in their value.

Next to a special assessment on land near subways the most logical way to finance new traction lines would be a land increment tax. The city could consider the valuation of each piece of land at a certain date as the base, and tax the owner two per cent of the excess value above that amount each year. That plan (a one per cent increment tax) was recommended in 1912 by Mayor Gaynor's committee on taxation. If it had been put in force then the yield from a two per cent tax would have been $58,000,000 in 1928 and $68,000,000 in 1929.

Behind these suggestions of ours for subway financing lies a philosophy of taxation for all civic improvements. We believe that all taxes in the last analysis should be based upon the ability of the taxpayer to pay—in short upon income, but that the income which is unearned

should be taken by the government first. No income in capitalist society is more fundamentally unearned than the income from city land values, and therefore a program of increased taxation for civic improvements should begin with those values and end with the public ownership of land. One way to bring about that public ownership would be to appropriate the rental value of land apart from its improvements.

14

HOUSING HUMAN BEINGS

THAT the richest city in the history of the world should have some of the world's worst slums is not a fact that annoys or surprises the average New Yorker. Gross inequalities in housing are such an accepted part of our life that, to borrow an analogy from Bernard Shaw, we become accustomed to them as we become immune to the taste of water because it is so constantly in contact with our mucous membranes that we believe it has no taste. Most men who live in New York do not stop to wonder why some men live in palaces and some in hovels because they have never even raised the deeper question why some are rich and some are poor.

The poor, we say, are entitled to as good water as the rich even if they cannot afford it, as good public school education, and as good fire protection. This communistic attitude toward education, water, and fire protection was not, of course, an innate idea. It came after long struggle and agitation and the usual pronouncements by the rich that these public beneficences would undermine the sterling independence and initiative of the poor.

To-day we are on the threshold of an era when we will

recognize housing, at least in cities, as a social responsibility in the same sense that education is. Hitherto a man's house has been his chief symbol of social success or failure, almost as individualistic a thing in his economic life as food and clothes. But with the building of great cities houses have become less and less individualistic. The very right to have a home has become a restricted privilege instead of a right. A man's living quarters have come to depend more and more on the accidents of work location and the density of surrounding population.

In modern megalopolis the very men who make the city, who clean its streets and shovel its coal and run its subway trains, may be exiled from it when they quit work at night. To-day in New York the average worker simply cannot provide a decent home for himself on the average wage. We have been so victimized by the spirit of the real estate speculator that we have almost forgotten the logical ideal of a city as a pleasant place for common people to live together.

At the outset of this discussion of housing let us say frankly that we see no satisfactory solution within the limits of our present economic system. So long as the distance between rich and poor remains what it is, there will be palaces on some Park Avenue and slums on some East Side. It would require a complete social revolution to establish the perfectly sound and obvious moral principle that in a sanely organized city every human being willing to work is entitled to good lodging. And it would require just as complete a social revolution to effect the

planning of a city without regard to the private profit of land owners.

But we do not despair of moving rapidly in the direction of those ideals even within our present economic order. And in the process we shall nurture a finer generation to establish a nobler order. Housing in New York has become a sorry tragedy for both rich and poor and so at last New York's intelligentsia are beginning to talk about it. On Park Avenue the unpaid and unpayable mortgages lie as thick and deep as the Persian rugs. All over the city the architects are hungry and the builders are bankrupt while hundreds of thousands of building trades workers walk the streets. All this in a city which needs cheap apartments badly.

The basic difficulty lies in providing homes for the lowest paid third of the population. The rich and the middle class can always find lodging that is adequate even if too expensive.

The Committee on Plan and Survey appointed by Mayor Walker said in 1927: "A third of the city's population—over two million people—live under unsatisfactory conditions, many under distressing conditions, some under disgraceful conditions. For thousands home is a mockery. It consists of two or three small rooms of which but one is adequately lighted—and often even not that one—and none of which is adequately ventilated; rooms that in the hot summer day become an inferno of torture to little children, the sick, and the weak.

"For the persons living in these homes there is little

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GETTING HIS CUT

privacy; there are no reticences; they must share the process of living with other families; they must use a common water closet; they must get all the water they use from a common faucet in the public hall; the fire peril menaces them at all times. . . .

"This is the state of two million people, over a third of the city's population, viz., those who live in the so-called old-law tenements or those erected before the tenement house law of 1901 worked its beneficent changes."

For these lower two million of New York's population this tenement house law destroyed some of the worst indecencies of the old slums but it did not provide good houses for workers within the reach of their incomes. It nominally prevented the construction of interior bedrooms, it compelled the landlords to provide a toilet for every family, and it reduced the building coverage on each lot so that tenements could no longer occupy 90 and 95 per cent of the plot on which they stood. But of course it was put in force very gently, and at the present rate of demolition these old-law tenements will not be cleared from New York for 134 years. Louis H. Pink of the State Housing Board points out that from 1920 to 1925 the old-law suites decreased only 2.8 per cent and that there were still 566,000 of them in the city in 1925.[1] Years ago an investigation proved that the infant death rate and the tuberculosis death rate in rear tenements were double those in regular tenements in the same neighborhood, but there are still many rear tenements in New York.

When the tenement house laws had been passed the

question arose: where can an ordinary worker live in New York?

The average industrial worker in New York does not receive more than $30 a week in good times and the average family requires four rooms to live decently. To allow a minimum for food, clothing, and sickness that family should never spend more than one week's income for one month's rent, which means a maximum of $7.50 per room per month. Where is such housing to be found in New York to-day? The answer is that it is not to be found at all except in the old-law tenements of the slums where over 1,500,000 people still live. The New York working class family must therefore crowd too many people into each room or spend more than a proportionate share of its income on rent. Usually that means the psychological or physical degeneration of the family.

The obvious answer is government housing at cost—and possibly some subsidization of housing for the very lowest of the income groups. The chief reason for the high cost of housing to-day, aside from the antiquated methods of production which we shall discuss later, is the cost of credit. When a private builder constructs a house he must pay 9, 10 and 11 per cent for his money, and when these costs are passed on to the tenant they mean a rental too high for the average worker. The government can borrow money at 4 and 5 per cent, and so reduce the cost of housing at least $3 per room per month. To launch a government housing program, therefore, seems

the surest way to provide fit housing for the average worker.

The economic reasons for such a program in New York are almost self-evident. Private builders have failed to provide the houses that the workers need within the range of the workers' income. Almost all the housing in New York in recent years has been built to rent at $15 a room a month or more. When presidents' conferences and building congresses meet to discuss housing they conceal or ignore this simple fact and print pictures in handsome booklets of model tenements renting at $5 and $10 a room a month more than the workers can afford to pay.

The most flagrant ballyhoo artist in the field of housing was Mayor Walker. His heart beat more noisily for the slum dwellers of the East Side than for any other part of the population. He made enough speeches about housing at election time to float a balloon. For our own amusement we checked up the headlines that Mayor Walker received on his imaginary housing program in the *New York Times,* and here are some summaries, mostly in the words of the *Times Index,* of the first two years of his housing headlines. The headlines began even before he was mayor. If we had included the housing headlines of his whole administration there would have been room for nothing else in this chapter.

October 27, 1925—Walker outlines housing program for relief legislation.

November 19, 1925—Walker says in Miami speech he

studied development there as aid in relieving New York City congestion.

December 11, 1925—Walker plans to have commission he appoints for survey of population look into housing congestion also.

February 5, 1926—League of Mothers Clubs of United Neighborhood Houses urges Walker to support program for better housing and cheaper rents.

February 9, 1926—Advisory housing commission formed at meeting of representatives of 50 organizations, in response to Walker's suggestion.

May 23, 1926—Walker pledges aid of city administration to relieve housing shortage, in speech at opening of Sunnyside Gardens.

June 26, 1926—Walker appoints August Heckscher special emissary to investigate European housing and recommend reconstruction to relieve congestion in New York City.

December 2, 1926—Walker invites "old east siders" to dinner in honor of August Heckscher, to enlist aid for rebuilding of congested areas of New York City.

December 3, 1926—Walker appoints August Heckscher head of commission to plan construction of model tenements on New York City's east side at dinner at Libby's Hotel.

December 5, 1926—Walker appoints August Heckscher chairman of Commission to start work of rebuilding East Side with model homes.

March 11, 1927—Walker introduces bill in Estimate Board for 20-year tax exemption on model tenements built by limited dividend companies organized and existing under state housing law.

May 27, 1927—Board of Estimate passes Walker's housing bill for tax exemption. [This was the one achievement of his administration in this field, and it was entirely the result of the efforts of others.]

June 23, 1927—Walker signs tax exemption housing bill.

July 8, 1927—Walker outlines plan for city to take land

in crowded districts by condemnation action and become partner in erection of model houses; conference with bankers, realtors and philanthropists.

July 28, 1927—Walker will introduce resolution into Board of Estimate branch of municipal assembly, calling for popular referendum on amendment to city charter to remove all barriers to his condemnation plan.

July 29, 1927—Board of Estimate votes favorably on Walker's resolution and proposes local law introduced by him to aid his housing plan.

August 19, 1927—Walker radiophones message on his bill and tenement study in Europe from London.

August 23, 1927—Walker talks with J. V. McKee by radiophone on London tenements.

September 11, 1927—Walker inspects Rome's tenement district.

Not a single brick was laid or a single plan for a house completed as a result of this prodigious volume of bally-hoo. Seven blocks of cleared land still lie sprawling in the heart of the East Side where Walker dreamed about a housing development at Chrystie and Forsythe Streets. The city has had the title to this land for years and the Walker administration could have developed a plan for it in a month.

To get back to the economics of housing, a room which rents for $12 a month when built by a private speculative builder can rent for about $9 a month when built by a limited dividend corporation, and $7.50 to $8.00 a month when built by the city. The City Affairs Committee took the Brooklyn Garden Apartments as a sample in 1931 and produced figures to show just how such apartments could

be built on $3 land (per square foot) in Brooklyn and Queens to rent for $7.50 to $8.00.

The reason for the cheapness of public housing, of course, is the cheapness of government borrowing plus the exemption from taxation. The principle of tax exemption is not new since it was the basis of the State Housing Law of 1926. That law seems to us now a most feeble instrument but it did mark a great forward step in public opinion concerning housing. It allowed housing corporations which limited their dividends to 6 per cent to have all their buildings exempt from taxation for twenty years if they built houses under the supervision of the State Housing Board that would rent for a maximum of $12.50 a room a month in Manhattan, $11 in Brooklyn and the Bronx, $10 in Queens and Richmond, and $9 elsewhere in the state.[2]

The theory of this law was excellent and the men who sponsored it were men of lofty purpose, but the benevolent capitalists who were supposed to come forward with their wealth did not materialize in large numbers. All the projects coming under the law have housed only about 6,000 people while private builders in the same period have built housing for at least 600,000. And even those projects which have been built under this law have consisted largely of coöperative projects which probably would have been built without the law and several of which were planned before the law was passed. The two splendid housing projects of the City Housing Corporation at Sunnyside, Long Island, and Radburn, New Jersey,

do not come under the tax exemption law because they are colonies of fairly high-priced, privately owned homes. The beautiful and admirably managed coöperative apartments of the Amalgamated Clothing Workers in the Bronx and on Grand Street require an investment of $2,000 for each four-room apartment before the tenant can enjoy the $11-a-room rent. This investment can be paid in small installments but it stands as a barrier against the workers who need good housing most. Probably the best example of limited-dividend housing which does not require a down payment by the tenant is the Brooklyn Garden Apartments with an average rental of $10.75 a room a month.

Probably we must look to Brooklyn and Queens for the model housing of the future, for there good land can still be procured for less than $3 a square foot, and large enough plots are available to develop regional projects. Slum clearance is a fine phrase to toy with but with our present condemnation procedure it will probably come last in a municipal housing program. The city paid $16.50 a square foot for the land which it captured on Chrystie and Forsythe Streets in the heart of the East Side after Mayor Walker had decided that a housing program would be a good campaign diversion. It is not the most suitable land for a model housing experiment but even here apartments could be built by the city to rent at $9.50 to $10.00 a room a month—and still pay 4 per cent on the city's investment.

We visualize the New York of to-morrow as a city

with relatively few private homes. The notion that paradise begins with personal home ownership is one that has been drummed into Americans for so long by presidents (bank and otherwise) and realtors that it is hard to dislodge. Nevertheless for the average American industrial worker home ownership is a chain that may bind him to a poor job or no job, and that may limit his right to fight against unjust conditions. Moreover, New York in our time is not likely to become a place where any but the upper economic third of the people can afford to own individual homes with open land, and still have enough money left to travel to work. The rich will continue to crowd out the poor no matter how valiantly some of the technicians of the Regional Plan work for a better spread of the population.

It seems that the only way out for housing is the construction by public funds in the outlying boroughs of great apartment projects surrounded by open space. The projects could be self-supporting so that the money for construction could come either from the Reconstruction Finance Corporation or from a city bond issue. The taxpayers would not lose a cent in either case. The tenants would pay the bill just as the car-riders pay for the Hudson Tunnel. Europe has demonstrated that such dreams are as practical as public schools. Socialist Vienna has led the way.

In New York Socialists, also, have been pioneers in the fight for such a program. Now many civic groups are taking up the fight. Recently the Public Housing Con-

ference and the City Affairs Committee have proposed a plan for realizing the ideal of municipal housing with the least waste motion. They proposed a city department of housing for local responsibility and a constitutional amendment to give the city power to go into the housing business. They frankly recognize that housing must be a public utility if the average worker of New York is to have a decent apartment within the reach of his income. The plan will be fought by the realty interests and distorted by the politicians, but it is bound to be tried some day because there is no other way out of the housing muddle.

Along with the revolution in housing finance there is likely to come a revolution in housing construction, and perhaps the latter will in the end be the more important factor in bringing down prices. The building industry is to-day almost the only great industry that has not adopted mass production methods. Perhaps the New York of the future will be made up almost entirely of buildings that have standard wall panels, and standard ceiling strips, and standard everything else, all made on moving belts in great factories.

H. G. Wells with his uncannily prophetic imagination said thirty years ago: "I find it incredible that there will not be a sweeping revolution in the methods of building during the next century. The erection of a house wall, come to think of it, is an astonishingly tedious and complex business; the final result exceedingly unsatisfactory. . . . Everything in this was hand work, the laying of

bricks, the dabbling of the plaster, the smoothing of the paper; it is a house built of hands—and some I saw were bleeding hands—just as in the days of the pyramids, when the only engines were living men. . . . Better walls than this and less life-wasting ways of making them are surely possible." [8]

If better walls are to be built into better homes it will be necessary to have better regional planning as New York's population grows. Thus far the city has not lacked planners but they have been, for the most part, private realtors disguised as civic leaders. The Russell Sage Foundation tried to supplant the hit-and-miss planning of these private realtors with a comprehensive survey and plan of the whole New York region including ten million people, 5,528 square miles, and 436 local government authorities. The 12 volumes of the Regional Survey and Plan of New York and its Environs constitute an impressive piece of work in almost every field except housing. Here the regional planners were cautious and noncommittal, regretting the slums but shying away from a public housing program. They propose, however, one useful reform which the cities of Europe, particularly Berlin, have found of immense value, the giving of the right to the city government to buy outlying land for future development. Such a right would make possible the planning of decentralized public housing developments in the suburbs as part of a gigantic regional plan.

As we approach the third bitter winter of unemployment the plea for a great public housing program comes

with treble force. Some day the rotting old-law tenements of New York must be cleared away and new housing built. Why not now? A housing program that would give new apartments to one million of New York's two million unsatisfactorily housed inhabitants would give work to 30,000 in the building trades for five years. What more intelligent way could be thought of to fight the depression with constructive relief?

15

THE CONSUMER PAYS

THE average New Yorker is almost wholly dependent for daily comfort on several great corporations which have monopolies or near monopolies of the things that he must have. He must have milk, and the chances are nine to one that he will buy from one of the two great dairy firms of Borden's or Sheffield's. He must have electric light and gas, and in both cases he is likely to buy them from one great holding concern, the Consolidated Gas Co. He must have a telephone, and again he has no choice. His bill must be paid to the New York Telephone Co., which is owned in entirety by the American Telephone & Telegraph Company. If he is an ordinary man he must ride in a subway or an elevated train, and contribute to one central consolidated monopoly of the B. M. T. and the Interborough. He must have water and mail, but here the private profit and the private monopoly have been destroyed and he shares in two of the safest and fastest distributive systems in the world without the annoyance of any scandals about inflated values.

New Yorkers pay a price of untold millions to the great private monopolies every year—an excessive price because these monopolies use their power to defeat effec-

tive regulation. Theoretically the law protects the consumer completely. The State Public Service Commission is supposed to regulate all telephones, gas and electric light companies; the State Transit Commission is ordered to do likewise in the field of subways and surface cars. In practice the public is in a state of continuous defeat because the private utilities have enough money and power to thwart the agencies of control.

The biggest dragon of all in the utility field is the Consolidated Gas Company, which owns the New York Edison, the Brooklyn Edison, the New York and Queens Electric Light and the United Electric Light and Power corporations. It also owns most of the gas companies of New York City and is so wealthy that it can afford to fight for years in the courts against any order to reduce its rates. It is so extensive and powerful that the expert who testifies against it rests under a cloud in the pursuit of his professional career. (The utility interests are fond of saying that there is no such thing as a power trust, and in the national field there is some plausibility in their claim, but New York has a power trust in both name and fact.) To-day in the middle of the depression when the prices of every other commodity on the market have gone down, gas prices and electric rates are only a little below the 1920 level.

The City Affairs Committee in a brief filed with the Public Service Commission early in 1932 showed how ridiculous the electrice rate schedule was in the face of falling costs. Since 1920 the cost of almost everything

that the electric companies buy has been reduced. Coal, copper and labor have come down. The operating expenses of generation per kilowatt hour dropped, from 1920 to 1930, 58 per cent for the New York Edison, 71 per cent for the Brooklyn Edison, and 50 per cent for the United Electric Light and Power. The lower costs of operation for the New York, Brooklyn, and Queens companies since 1920 have resulted in a saving of $13,389,000. Of course there was a most substantial further decline in prices during 1931 and 1932.

When companies save so much money at the expense of the consumer, it is natural that they should pay large dividends. Dividends have increased as operating economies have been realized. Even during the depression, the New York Edison, the United Electric Light and Power and the New York and Queens Electric paid 12 per cent for both 1930 and 1931. The Brooklyn Edison continued its usual 8 per cent dividend, which seems innocent enough in itself but is not so innocent when we note that it tucked away many unnecessary millions in its surplus.

Being a holding company Consolidated Gas is able to use certain familiar little tricks to step up its profits. For example, it sells money to its subsidiaries at a much higher price than it must pay, and pockets the difference. This result is accomplished by selling its own preferred stock to the public to yield 5½ per cent and passing the money on to subsidiaries for common stock which pays the Consolidated 12 per cent. The differential of 6½ per cent goes to the Consolidated stockholders and costs the

consumers of New York $3,900,000 a year. This capital could just as well be obtained directly from the public by the New York Edison Company, for example, at 5½ per cent and so eliminate the extra profit to the Consolidated. Or the Consolidated itself could raise this money by selling preferred stock at 5½ per cent and passing on the money so raised to its subsidiaries without a huge brokerage fee.

A holding company should be a mechanical convenience and a genuine aid to economical management. In the case of the Consolidated the device has been used for parasitism.

The Consolidated reduced its rates in 1931 with a great fanfare of trumpets, announcing a voluntary cut of $6,000,000. Upon examination the gift horse appeared not so attractive as advance notices indicated. Even after the reduction, about 50 per cent of New York residential users paid more for their electricity than they did in the boom year of 1928. The new rates put a disproportionate burden upon the poorest users, taxing every customer a one dollar monthly minimum. These rates in New York are still inexcusably high. In Ontario under public ownership of the electric industry the customer's minimum charge is 33 cents. For 100 kilowatt hours a month a New Yorker pays $5.55 while residents of Toronto, even after a 10 per cent allowance is made for the taxation of a public plant, pay $1.73. Let the comparative figures for small and large users in various American and Canadian cities speak for themselves:

COMPARATIVE MONTHLY BILLS

	40 kwh.	*100 kwh.*	*250 kwh.*	*500 kwh.*
New York City	2.55	5.55	13.05	25.55
Toronto (adjusted 10% to allow for taxes)	1.13	1.73	3.23	5.73
Jamestown, N. Y.	1.40	3.25	6.63	12.25
Los Angeles, Calif.	1.92	3.42	6.82	11.82
Seattle, Wash.	2.20	3.40	6.30	8.80
Washington, D. C.	1.88	4.70	11.75	23.50

(Jamestown, Los Angeles and Seattle have publicly owned plants.)

Whether rates are reckoned comparatively or by cost analyses we pay too much for electricity in New York City. We pay approximately $19,000,000 a year more than we need to in order to give the electric companies a fair return for their capital. That means an average excess charge of $12 a year for every domestic consumer in New York.

If we judge New York's electric rates by the standards of public ownership rather than the standards of conventional investment the overcharge is $17 a year for each of the 1,600,000 domestic consumers of New York City. A publicly owned and operated electric industry would not need to pay more than 4 per cent interest to attract capital in normal times, and this reduced interest rate would save New York consumers $26,500,000 a year.

Under the present electric rate schedule the small light users partially subsidize the large power users. The argument was formerly made that these residential users should bear the chief burden because they were responsible for the peak load (the largest amount of electricity

needed at any one time) and this peak load forced the companies to spend many millions for equipment adequate to meet it. That argument does not hold to-day. The big industrial users are responsible for the peak load that demands great equipment and yet they are still favored in the rates. The residential consumers with their steady demand are the backbone of the trade, but they are still discriminated against. It has been charged that the small retail consumer who pays the maximum rates is actually paying the entire cost of producing and distributing New York's electrical energy and that if the system were run on a non-profit basis, the current used by the big power consumers could be given away.[1]

Gas consumers are in the same plight as electricity consumers. The Brooklyn Union Gas Co., which serves 680,000 domestic consumers, has actually increased its rates for small users in the middle of the depression (August, 1931). It is paying steadily 10 per cent dividends on a stock capitalization that is forty per cent water.

Whenever the state Public Service Commission undertakes to reduce electric, gas, or telephone rates, the Consolidated Gas or the New York Telephone Co. takes its case to the courts, presents an array of experts to support its claims, and appeals and appeals and appeals from all adverse decisions. In March, 1932, the commission practically admitted in accepting the new electric rate schedule that it did so because of the hopelessness and expense of fighting the Consolidated. When the commission grappled with the New York Telephone Co. in the last great

rate case 62,864 pages of testimony were taken with 4,323 exhibits in the first ten years.

The telephone monopoly is one of the most respectable and efficient of our utilities. It spends enormous sums in good-will advertising in the newspapers and magazines. While its head, Walter S. Gifford, was chairman of the President's Relief Organization it was revealed that the New York Telephone Co. (owned entirely by the American Telephone and Telegraph Co.) had given $233,000 to charitable causes in three years and charged it to operating expenses, which means that the consumer would ultimately be asked to pay it. The company did not take cheerfully the suggestion of one stockholder that all charitable contributions should be taken from the company's surplus, and when the Public Service Commission's chairman asked it to do so the company refused. It took the case to the courts where it is still in litigation.

At the present moment the telephone monopoly is making itself extremely unpopular by assessing all users of hand-set telephones an extra charge of twenty-five cents a month in perpetuity. In Washington, Baltimore and Virginia other branches of the American Telephone & Telegraph Co. allow their customers to pay $4 cash or $4.50 in twenty-five cent monthly installments for a hand-set telephone, and then all extra charge is discontinued. The difference between the New York and Washington methods of charging means an extra payment of $8,540,000 in the next five years by New York's 813,000 users of hand-set phones. Even if the company's own figures

of the extra cost of the new hand-sets were accepted, the cost of interest and amortization would be only 3 cents a month. The telephone monopoly is skimming almost $2,000,000 worth of extra cream each year from New York consumers by its hand-set rates.[2]

When the telephone company is faced with facts like these it falls back for defense upon the conservative rulings of the courts. It maintains that the courts have given it the legal right to receive a fair return upon its capital. What is a fair return and what is capital? The answers to those questions are so divergent that a corps of lawyers and experts can quarrel over them *ad infinitum*—for a good price. The common-sense answer seems to be that investors in a protected public monopoly even under the ethics of capitalism should never be paid more than a fair dividend on prudent investment. The courts, however, have taken a "larger view" and have permitted the companies to reckon the reproduction cost of their present equipment as an important factor in setting rates. Here a whole world of guesses and hopes enters into the calculation of value.

The New York Telephone Co. in 1926 asked for an 8 per cent return on an intra-state valuation of 615 millions.[3] According to the New York Public Service Commission that was an overvaluation of about 250 millions. The rates asked by the company were 24 millions a year higher than those suggested by the public body. The New York Telephone Co. went to the most ludicrous extremes in padding its valuation figures. Its own engineers had

estimated its fair value at 160 millions above the figure of the Public Service Commission, but it was not satisfied. It hired another group of utility engineers from Stone and Webster who shoved the valuation up 106 millions more. The difference in telephone rates based on these two estimates would be $7,400,000 a year for the telephone customers of New York State. And the cost of all this statistical juggling, which in the case of these two sets of experts was one million dollars, and which in the case of the whole rate fight of the telephone company totaled over six millions, was added to the costs of operation and must in the long run be paid by the consumer.

The telephone company denies that it ever has tried to get a penny on watered stock or inflated estimates. The Public Service Commission is relatively helpless to protect the consumers in such a situation because neither the Republican nor the Democratic Party is willing to support an aggressive fight on the utilities, and because the companies can always appeal any adverse ruling to a reactionary court. Moreover the Public Service Commission is undermanned and undersupplied with money so that it cannot, even if it would, take an aggressive attitude toward the utilities. Some of its members, notably George R. Van Namee, who was political manager for Alfred E. Smith, have taken an aggressive attitude in defense of the utilities on almost every possible occasion. Chairman Milo Maltbie and George R. Lunn, the fairly progressive members of the commission, often find themselves outvoted.

A similar situation in more acute form exists in the regulation of transit lines. The city has had to fight through every court in our judicial hierarchy to maintain a perfectly obvious provision in our subway contracts for the five-cent fare. Having defeated reactionary judges the city must now engage in another long struggle to recapture its subway lines at a fair price from traction interests that have the support of a conservative regulatory body, the State Transit Commission. (The Board of Transportation appointed by the mayor *builds* subways; the Transit Commission appointed by the governor *regulates* them.)

The moral of all these painful struggles is that when a city surrenders its public utilities to private monopoly, its troubles begin. The city and state had sense enough when the Holland Vehicular Tunnel and the George Washington Bridge were built to make them public enterprises under the Port Authority, so that profiteering at the expense of taxpayers was avoided. Would that our predecessors had had as much sense when they started the subways!

The city after building nearly all the subways and part of the elevated lines was foolish enough to turn over its original system to several great corporations which are now united in one combination under the chairmanship of the B. M. T. head, Gerhard M. Dahl. The city put $386,000,000 into the old systems while the traction interests put in $325,000,000. In order to raise the $325,000,000 from private sources (the city was too close to the legal debt limit then to borrow all the money itself)

Mayor Gaynor signed the famous dual contracts in 1913 which turned over the transit system to the predecessors of the present B. M. T. and Interborough on terms highly favorable to the companies. The companies and the city were supposed to get 8.7 per cent on their investment but in practice the profits went to the companies.

They had prior claim to the interest on all investments in the system except $2,650,000 annual interest on the investment made by the city in the first subway. Aside from this interest the city never received a nickel on its investment until in 1929 the Interborough began paying interest. The B. M. T. has never paid the city a cent on its investment and it is likely that the Interborough, having gone into the hands of a receiver, will soon stop all interest payments except the obligatory $2,650,000 a year. The system is $223,000,000 behind in its schedule of payments due to the city but only $5,000,000 behind in its payments to the private owners.

What a partnership! The city pays for more than half of the subways, gives the companies prior claim to almost all payments, takes almost nothing in return for its investment, and then is fought year by year in the courts by company lawyers whose huge bills are charged to operating expenses. The only thing that has made the situation tolerable is this, that New Yorkers can ride 27 miles for a nickel in the subway system—if they are not smothered or crushed by their fellow strap-hangers before the end of the journey.

We are paying the price now for the bad bargaining

of Mayor Gaynor. He did not even force the companies to contract for an intelligent plan of recapture by the city. It is true that the city can buy back most of the subway system by serving notice on the companies of its intention to recapture and by paying them their total investment plus 15 per cent minus an agreed annual deduction. But this right of recapture is not inclusive of any one major system of subways. In Manhattan the city can recapture either the East Side subway or the West Side, but not both —at least not until 1963. It cannot recapture the elevated lines at all for they have long-term franchises.

The incompleteness of the right of recapture gives the companies the chance to make an expensive nuisance of themselves by refusing to give up the non-recapturable parts of the system unless the city pays a handsome price for the whole. The city does not want an octopus with some of its most useful legs cut off, especially since in this case some of the legs might come to life independently.

Now, at last, the need of unifying all the transit lines in the city has become acute because the new municipally owned Eighth Avenue line must be coördinated with the existing lines. There are three major problems involved: how much shall the private investors in the B. M. T. and Interborough get for their stock, how much fare shall the passengers pay, and who shall run the unified system. We believe that if the situation is properly handled by the city the whole system can be unified under city operation without disturbing the five-cent fare. Thus far the city, the State Transit Commission, and the companies have been

jockeying for position. Walker was obviously favorable to unification under the B. M. T. but he dared not abandon the five-cent fare voluntarily because of the tremendous loss in votes it would entail.

Also he had to reckon with Samuel Untermyer. Untermyer, however reactionary his political connections may be, has been a terror to the B. M. T. and to the administration officials who are friendly to the B. M. T. Chairman John H. Delaney of the Board of Transportation is afraid of Untermyer's scorching vocabulary and great personal prestige. "The line-up of Mr. Delaney and the B. M. T.," says Mr. Untermyer, "is just another Equitable Bus experience on a vastly bigger scale."

The B. M. T. will not say exactly how much it expects for its lines but at one time it was holding out for more than $500,000,000. Untermyer sought to compromise with the company by suggesting $489,000,000, although he admitted that the estimate was many millions too high. The company refused to negotiate on this basis and finally, in December, 1931, the Transit Commission by a vote of 2 to 1 offered a plan that set a net price of $474,500,000.[4] Nobody has accepted the plan yet. Untermyer declared that the commission price was really more than $500,000,000 when all the company's obligations were reckoned in, and he denounced the figure as fifty to seventy-five millions too high.

It is easy to demonstrate that this $474,500,000 price is too high, although the traction companies are still pretending that it is too low. The City Affairs Committee

made a study in March, 1931, which set $420,000,000 as a fair price. Since then the decline in stock prices and in the number of passengers makes $400,000,000 an ample price.

At the moment that the Transit Commission presented its plan to the public it proposed to pay the traction combine $150,000,000 more than the market value of the stock. The proposal meant a payment of $80 a share for B. M. T. stock which in August, 1932, was selling for $25, of $100 for B. M. T. preferred which was selling for $61, and of $50 for Interborough stock which was selling at $7.[5] Some of the most ludicrous exaggerations of value crept into the estimate. The inventory included 773 wooden cars a generation old at $7,998 each, although these cars probably cost about $9,500 originally, and some of them have recently been sold for $100 to $350. For almost obsolete elevated lines, some of which are actually losing money, the traction combine was to receive $70,000,000 more than cost less depreciation. This was a high price even if the elevated lines had had a bright future.

Fortunately the recent scandals involving Walker, the Equitable Coach Co. and the B. M. T. have frightened some of the Tammany officials and there is hope of an agreement on unification at a fair price. Speaking bluntly, neither the Transit Commission nor the Board of Transportation as now constituted can be trusted to drive a fair bargain for the city except through fear of a scandal if they do not. The one good official that the public has had

to watch its interests in traction affairs, Charles C. Lockwood of the Transit Commission, has resigned to accept a Supreme Court judgeship, sardonically enough as a part of the notorious judicial deal for 12 judges engineered by the Democratic and Republican bosses. Lockwood made a brave fight against the domination of the Transit Commission by the B. M. T. but was uniformly outvoted by his conservative colleagues William G. Fullen and Leon Godley.

In resigning Lockwood wrote a stinging attack upon his colleagues' attempt to pay the B. M. T. half a billion dollars for its interests. He said that the company had already spent at least a million dollars for lawyers and engineers to puff up its value for bargaining purposes. "The prices and values of these properties," he said, "seem to have gone higher and higher since 1929, while the prices and values of about everything else in the world have gone lower and lower." He estimated that under the plan which Delaney and the conservative transit commissioners were trying to jam through, the city would pay $37,000,000 each to the Interborough and B. M. T. in excess of the estimates of original and reproduction cost by the commission's own engineers.[6]

The hope of getting municipal operation of a unified subway system grows. Mr. Delaney has already indicated a partial surrender on that point. The revelation of Mr. Dahl's $675,000 bonus and salary in four years has indicated to the public where its money goes under private operation—13,500,000 passengers could ride on that sum.

The new arrangements for the municipal operation of the Eighth Avenue subway are excellent, with experienced engineers in charge at reasonable salaries, with higher wages for the workers, and with the abolition of the seven-day week. It is not likely that Tammany will dare to risk a traction disaster by putting inexperienced favorites in responsible positions. Whatever petty favoritism may exist it will be trivial compared to the parasitic manipulations that have occurred and occur under B. M. T. control.

Meanwhile the transit battle of the century will not be finished until it is decided whether we shall continue the five-cent fare.[7] The struggle boils down to this: if all the costs of construction are taken into account, the New York passenger who pays a five-cent fare does not pay for his ride. About three cents comes out of the taxpayer. We believe that this sharing of subway costs by the taxpayer is perfectly just because the subways have added billions of dollars of value to New York land, but in time of depression the question rises whether the taxpayer should still bear this burden, especially since a $50,000,000 annual outlay is involved in paying for the new Eighth Avenue subway in a hurry. Mr. Delaney wants to pay for the new subway quickly because it is much cheaper to pay for it that way. It saves many millions in interest rates that the city would otherwise have to pay on long-term loans. The real estate interests are fighting the Delaney plan bitterly because it means higher taxes *now*. If they win, taxes will be reduced and we will have the

seven-cent fare. If Mr. Delaney wins, taxes will stay high for a few more years, but the five-cent fare may continue forever.

We believe that the Delaney plan is far sounder than the plan of the real estate interests. These interests are always willing to skim for themselves the heavy cream that comes from rising land prices but when those land prices begin to fall, they seek to push the burden of subway maintenance onto the strap-hanger. They fought and defeated the plan to pay for the subways by special assessments on neighboring land, which plan would have saved the city from its present financial embarrassment.

From the strap-hangers' point of view the elevated trains are approximately as good as subways, but the transit system has been submerged at tremendous expense to the city so that it would not ruin the value of adjoining property. The strap-hanger has a right to insist that a large part of this added cost should come from such adjoining property.

For thousands of working people in New York, especially in time of unemployment, a difference of three cents in transit fare is a serious problem. Often it is the difference between walking and riding. The life of the working people has been built on the stable fact of the five-cent fare. If the real estate interests have their way the extra three cents paid by a passenger will go to bankers and bondholders for increased interest on city loans in order to relieve the present generation of taxpayers.

Putting it mathematically, the real estate interests would have us borrow money for the subways on fifty-year bonds which means that for each dollar we get we must pay $2.53 in interest and amortization. Mr. Delaney wishes to pay for the subways in four-year bonds so that for each dollar we spend we must pay $1.111 in interest and amortization. The difference in interest is the difference between 11 per cent and 153 per cent. Mr. Delaney's scheme is cheaper in the long run while the business men's scheme will be $38,000,000 a year cheaper in the next few years. If the Delaney plan is abandoned in favor of fifty-year bonds the five-cent fare must be abandoned too because the State Legislature has decreed that the New York subway system must be self-supporting and it could not be self-supporting if we paid $2.53 for each dollar of subway construction.

All of which reinforces what we said under the head of the land racket. If the city had levied special assessments against adjacent land originally, the subways would never have been a financial nightmare, and the gentlemen who ride to work in limousines would not now be attacking the five-cent fare as uneconomical.

16

THE CITY OF RICHES AND POVERTY

OVER and over during this recital of the facts that are known about New York's government—to say nothing of the facts that are suspected—the reader must have been tempted to cry: Why has New York loved Tammany so long and so well? Why did a whole city take to its heart a playboy mayor so completely that he won an overwhelming victory at the polls in 1929 in spite of the vigorous and well-grounded attacks of his Republican and Socialist opponents?

Whatever our final answer to these questions, neither authors nor readers have any right to formulate it until we have specifically considered some aspects of New York City's life to which we have referred thus far only in passing.

New York City, physically, is a monument to the might of a machine age and to the crimes of capitalism. Artists and architects may quarrel over the New York sky line, city planners may well deplore the folly of concentrating so great a population on the tip end of a narrow island, but to the average layman that sky line is an outward and visible sign of the power and glory of human achievement. Neither height nor depth has deterred Man the Builder. He has bored under great rivers on which can float the

commerce of the world; he has spanned them with bridges. The traveler by rail enters the city through splendid temples such as the ancients built for the worship of the gods. And yet if he arrives at the Pennsylvania station by night, he has to pick his way out of some of its underground exits past sleeping men who have nowhere to lay their heads except upon concrete steps. These men are workers, some of them perchance the very workers who have built the towers which lift the traveler's eye up to the night and its stars. This is what the richest city in the world has done to its most useful human beings.

In the dreary, man-made deserts of most of residential New York men live not from love of noise and dirt and ugliness but from necessity. That necessity is not the work, primarily, of New York City's government or of Tammany Hall. It is born of the capitalist system which turns over land to the landlords and great industries to the profit takers. The sins of Tammany are dwarfed when compared to the monumental injustice of that system with its palaces and slums.

One despairs of giving halfway accurate figures on wealth and poverty in New York in the depression of 1932. A conservative estimate of the number of unemployed, based on figures of factory employment and the data of the Welfare Council, is one million. That is one-third of all those gainfully employed. The needle trades which are centered in New York are almost idle; building is at a virtual standstill. Even the luxury of great Babylon is less apparent than a few short years ago. But

Fifth and Park Avenues still flaunt an opulence that one would not think could exist less than half an hour away from the poverty of Harlem and the rookeries of Sullivan Street and Avenue C.

We shall, however, go back to the last year of the golden epoch of vaunted prosperity—1929. In that year, according to the State Department of Labor, the average wage paid to men in city factories was $36.86 weekly. If men worked 52 weeks a year that would mean an annual wage of $1,917. But New York work, especially in the needle trades, is highly seasonal. It is conservative to say that for such workers a forty-two-week year is a good average. That brings the annual *average* income to $1,547 for factory workers. Below them are day laborers and semi-casual workers. The estimate of the Housing Commission in 1926 was that one-third of the families in New York had incomes less than $1,500 annually.

The lowest official estimate in 1926 for the cost of living was that made by the National Industrial Conference Board, the employers' organization. It was $1,752 for a family of four supported by an industrial worker; $1,907 for a family of five. Compare these figures with the figures of income! Nor is this all. The Conference Board figure, checked by figures of social workers, and by the actual budget studies of the Heller Committee for Research and Social Economics in San Francisco, was far below a decent standard on rent, medical care, recreation and savings. A truer estimate of a standard which would allow for health, decency and a high school education for

the children would, in 1929, have fixed a level of $2,700 for a family of four—$1,200 above the average income of factory workers.

Since 1929 the average weekly wage has dropped approximately 17 per cent for those still working. Living costs have declined 17½ per cent. But it is notorious that the chief burden of relief has fallen on the poor; that it is the generosity of the poor to the poorer far more than any organized charity or public relief which has averted wholesale starvation. That unknown factor of sharing which has saved life has terribly reduced the standard of living. The gains of a decade in housing have been lost by the enforced doubling up of families. Such in dry statistical terms is the situation for workers in New York. It means that men grope in garbage cans for extra food; that babies swelter and die in the summer heat of the slum.

It is hard to explain why New York labor has been so docile in the face of these conditions and why it has been so much less effective in party organization than European labor. In England the working class grew in political experience after 1832, while an aristocracy, which had seen the democratic handwriting on the wall, gave the government a leadership that was competent even though selfish. Few labor leaders were drawn out of their class because there were few prizes they could win in an upper class. In America the prizes have been more abundant and the desertions to the army of upper-class and lower-class racketeering more common. There has been no disinter-

ested group to give us clean or efficient government, and no homogeneous base for our democracy.

Our pioneer psychology and our scores of national groups have complicated the situation in New York. Millions of immigrants have taken New York only as a place to pass through. Others have seen their village habits and customs break up with such bewildering speed that the second generation has little in common with the first. Unfortunately the forces present in New York life have not made for labor solidarity. Peasant groups have come from many nations without labor background. By the end of the nineteenth century New York had become one of the largest Irish, Italian, German, and Greek cities in the world. The religions and the languages were bases of division. The tug of American bourgeois psychology (what Hoover would call "individualism") was against labor political solidarity.

We record these facts merely to show the difficulties in building a politically-conscious labor movement in New York, not to blame the sins of Tammany upon our foreign population. Native-born Americans can play as dirty politics as any immigrant group that ever came to New York. Philadelphia, one of the most corrupt and ill-governed of American cities, has always had a comparatively low per cent of foreign born.

For the owning class New York City is still not only the economic but the social capital, seat of the enormous concentration of wealth in Wall Street and of fashion on Fifth and Park Avenues. In 1929 New York with five

per cent of the population had 26 per cent of the millionaires. In that same year an inquiry which one of the authors of this book undertook to get some idea of the upper range of rents—the lower he knew—elicited from a woman realtor the information that a "ducky apartment" could be had for $75,000. It is fair to say that $40,000 pent houses and $20,000 apartments under the roof were more usual. To-day, while 200,000 New Yorkers are living on a relief allowance of about five cents a meal, the restaurants and night clubs of the rich ask enough for a meal to maintain a starving family for a week.

During the golden age of Calvin Coolidge the Park Avenue Association did some boasting which Stuart Chase put into an illuminating picture of how the upper half lives—or perhaps we should say the upper fortieth. Along the avenue, it appeared, lived 3,000 to 4,000 millionaires whose money was in many cases earned for them by coffee-growers in Brazil, cattle men in Nevada, and miners in Africa. They spent perhaps $280,000,000 a year. The average family income was over $100,000 a year, enough to keep a worker's family alive on its average wage for 66 years. One Park Avenue apartment boasted sixty millionaires under a single roof.

How Thorstein Veblen would have relished these illustrations for a new chapter on Conspicuous Waste! Park Avenue found that it was extremely difficult to furnish an apartment at all adequately for less than $100,000. Stuart Chase tells of a single bathroom in jade and gold costing $35,000.

A TALE OF TWO DINNERS

HOTEL PIERRE
NEW YORK
DINER

Monday, Sept. 19, 1932

HORS D'OEUVRE	
Imported Caviar	$2.50
POTAGES	
Green Turtle	.70
ROTIS (*to order*)	
Long Island Duckling	5.00
LEGUMES	
New Peas	.80
Broccoli	.80
SALADES	
Calavo Alligator Pear (½)	.65
ENTREMETS	
Stewed Fresh Peaches	.50
Hotel Pierre Special Coffee with Cream	.40
Total	$11.35

New York City's Official Food Budget for a Family of Five for One Week.

Milk—7 bottles "B"	$ .77
15 cans Evaporated	1.00
Bread—13 loaves	.91
Oatmeal—1 box	.08
Cornmeal—2 lbs.	.10
Macaroni—1 lb.	.08
Brown Rice—box	.15
Wheatsworth Cereal—box	.13
Flour—3½ lbs.	.10
Potatoes—17 lbs.	.25
Cabbage—small	.10
Onions—2 lbs.	.12
Turnips—1½ lbs.	.10
Carrots—1 lb.	.05
Dried Lima Beans—1 lb.	.10
Green Split Peas—½ lb.	.04
Tomatoes—2 cans	.17
Kidney Beans—2 lbs.	.16
Prunes—1 lb.	.05
Apples—3 lbs.	.10
Oranges—7	.14
Stewing Lamb—2 lbs.	.26
Cheese—½ lb.	.11
Eggs—1 doz.	.25
Salmon—1 can	.12
Butter—1 lb.	.29
Lard—2 lbs.	.16
Salt Pork—½ lb.	.05
Sugar—5 lbs.	.23
Coffee—1 lb.	.19
Molasses—1 can	.14
Cocoa—1 box	.10
Salt—1 sack	.05
Matches—1 box	.04
Soap—3 bars	.10
Scouring Soap	.06
Total	$6.85

And how Park Avenue adorned itself in those golden days! Four thousand daughters of the rich spent annually $21,000 apiece on clothes. Enraptured with the music of the opera they invaded the boxes at the Metropolitan, exposing their expensive backs. Outside of the opera door hungry men stood watching. They still stand watching.

The Park Avenue Social Review advertised a sable coat for $70,000—absolutely in the mode! The gracious leaders of the charity set appeared at Beaux Arts balls in golden-leaved dresses, all for the benefit of the poor. Mrs. So and So gave a benefit performance on her Long Island estate for vacations for the poor little children of the East Side. Mrs. Graham Fair Vanderbilt spent a fortune in one night and displayed to her delighted guests the entire cast of Earl Carroll's Vanities. It was estimated that a good coming-out party for a debutante of the social register cost at least $20,000. Mrs. Paul Dubonnet, social arbiter, gave an interview to the *Los Angeles Times.*

"On a $10,000 a year clothes budget a woman can easily be nicely dressed if she buys no furs or jewels," Mrs. Dubonnet said. "It costs a tremendous amount of money to be among the best-dressed women in the world. Most of these women spend at least $60,000 a year. . . . A decent sable wrap costs $50,000, and you simply can't get a mink coat that you would wear under $12,000."

It is in this accepted contrast of wealth and poverty that the real crimes and tragedies of New York are rooted. What is most wrong with New York is capitalism near the end of its epoch, not Tammany Hall. Indeed Tammany

Hall can only be understood as one of the tools of capitalism in dealing with masses of workers who must be managed because they have votes and who might use them to claim real power if they were aroused by a sound political movement of their own.

Previous chapters have described the nature of the political machine, the sort of favors it renders and the basis of its appeal to masses to whom it offers some sense of protection and human power in the cruel jungle we call civilization. The condition of this appeal to the masses is, of course, that they should not effectively take economic power into their own hands. If Tammany is to be what former Ambassador Gerard told the Harvard Club it was, a bulwark against municipal socialism, it must keep alive the illusion of friendship for the people and, at the same time, cultivate among the workers an acceptance of the inevitability of capitalism and its ethics. It must temper the poverty of the city masses with bread and circuses and opiates.

Tammany does not so much rob the rich to give to the poor as rob both rich and poor. Yet from another angle it can hardly be said to rob the rich at all. It exacts only a moderate commission for keeping the masses quiet and confirming landlords, bankers, public utility owners and the whole House of Have in their favored position. That is why our repectable classes are so cautious and fearful in their attacks on Tammany. That is why we do not know of a single powerful millionaire in New York to-day who is fighting Tammany aggressively.

Tammany's methods simply reflect the prevailing business ethics. The rule of capitalist business is to capture as much unearned wealth as possible regardless of social welfare. In politics that may be called graft but in business it is called the reward of sagacity. Wall Street has charged the people of New York far more than Tammany for its sagacity. Nothing that Judge Seabury has uncovered matches in the way of arrogant corruption the South American loans, the oil scandals, or the amazing case of Kreuger and Toll. No tin boxes have produced such magic fortunes as the bonus Bethlehem Steel gave to its president, without knowledge of workers or stockholders. The flaunting luxury of New York comes not from political extortion but from the legalized extortion of a profit system that gives huge rewards to absentee owners and successful manipulators regardless of their service. The politicians are weak imitations of the business men. The estimable folk who want to keep high standards of public service in city government without touching the basic economic wrongs of our time expect the unreasonable. An electorate genuinely aware of the evil of all unearned wealth would strike at Wall Street long before it reached Jimmy Walker.

So general is the poison of the racketeering standard in our civilization that it is hard to say how much cynicism or consciousness of ill-doing is possessed by the individual politician, business man, lawyer or gangster. Mayor Walker, Sheriff Farley, Magistrate Silbermann, Al Capone, and Harry Sinclair, when some measure of justice over-

took them, were probably sincere in thinking themselves abused. Doubtless they felt that they had done what everybody else would do in like circumstances. It is on the whole a cause for some hope that there is as much of a standard as there is of "public office as public trust." That standard has been sorely battered by the impact upon urban democracy of those who want for themselves things that belong to society. Many a landlord seeking tax reduction and many a public utility magnate seeking a franchise has bribed the government whose venality he outwardly deplores. Then he has told the world that corruption would make socialism unworkable!

It is clear enough, on this view, that the remedy for New York's ills in government as for the deeper ills of mankind in these years of crisis is a change in system. Social revolution is the ultimate social reform, not necessarily a revolution of violence but a thorough reconstruction of the control of our lives. City government under capitalism can be improved but it cannot be wholly released from that exploiting class which uses it as a tool. Of course no city under our scheme of things can change a social order by itself. We need an international movement for that.

What municipal socialism can do in New York we shall suggest more fully in our final chapter. Here we would point out the impotence of the conventional good government movement to capture the imagination of the electorate or reach its deep-seated ills. We need a greater vision and a practicable plan to make exploited workers see that

they can win for themselves infinitely more than any friendly district leader can give them.

We shall be better able to consider the task and possibilities of municipal socialism in this city of riches and poverty if we examine briefly two aspects of Tammany's relation to the working masses which conclusively show how it uses its power to divert their attention from fundamental issues.

First, let us discuss Tammany and organized labor. New York city workers are better organized than in most American cities. The building and printing and needle trades are, or were up to the depression, sufficiently organized to exert a high degree of power over hours, wages and working conditions. The story of the rise of the needle trade workers by organization out of their most wretched sweat-shop condition is one of the most heroic chapters in American history. Also that story is an illustration of the limitations of labor unionism in so capitalistic an environment as ours where the contagion of the racketeering spirit spreads to all sections of society.

Our concern, however, is with the relation of Tammany and its city government to the workers, organized and unorganized. In a word, these relations are eminently "practical." Tammany in cosmopolitan New York in order to survive has had to acquire a capacity for racial and national tolerance and inclusiveness. It has always had to be at the farthest pole from snobbishness or the high-hat manner. Its voting strength is among the masses. Hence Tammany and Tammany's government have been a

little quicker than some other political machines to yield well before the breaking point on certain measures of social amelioration. Tammany has seen the wisdom of having a "liberal" labor policy which has become more liberal in proportion to Socialist pressure.

In public work Tammany's government has been less tight-minded and sadistic than the government in some coal, steel and textile regions. It has been wise enough not to get an anti-labor reputation, but always hard-boiled in suppressing "the radicals." The strutting Grover Whalen was not led to resign as police commissioner because of his stupid and brutal handling of strikes and Communist demonstrations, but because he crowded Jimmy Walker from the spotlight. His successor, Commissioner Mulrooney, has done a better job because he is a "practical cop," not because of any theories on civil liberties or the rights of labor. Every great strike in New York sees plenty of jailing of peaceful pickets. Workers, accordingly, do not trust for protection to the justice of their cause but to the influence they can get by "practical" means. Tammany is always ready for business, ready to grant justice from the police for political support. The justice is needed by radicals and conservatives alike and there are many ways of paying for it. Arnold Rothstein, according to indications, was probably a "fixer" with police and magistrates in the Communist-led fur and cloak makers' strikes of several years ago.

Tammany's great tie, however, is not with the workers as workers but with a certain type of labor leader. So

far has this tie-up gone that we have heard a prominent labor man declare privately in a burst of candor that "the Central Trades and Labor Council (dominated by these labor leaders) was Tammany first and labor afterwards." This council scarcely makes a pretense of nonpartisanship in its endorsements. A Tammany candidate would have to be caught red-handed in blacklisting labor not to be endorsed. Joseph P. Ryan, president of the Central Trades and Labor Council, has been Mayor Walker's stanchest defender. He was one of the only two citizens who approved the salary grab which raised the pay of members of the Board of Estimate after the depression began. He publicly advised the mayor to ignore the socialist recommendations for unemployment relief in 1930. For this it is said that Mr. Ryan has had his reward in certain valuable extra-legal privileges. Some of his predecessors and associates have got jobs. Ex-Sheriff Farley got his start as business agent of the Cement and Concrete Workers Union. J. P. Holland was called from the presidency of the State Federation to a well-paid post on the malodorous Board of Standards and Appeals. Leadership in the typographical union helped John H. Delaney's rise to the chairmanship of the Board of Transportation where his real ability and industry are subordinated to orders from the Hall. Other leaders get less conspicuous favors.

What the workers got and get is something very different. In 1926 Mayor Walker used both force and misleading promises to help break the exceedingly well justified strike of the subway workers on the Interborough. Then

he approved a bill, or rather agreed to forego claims against the company on behalf of the city, which included $1,600,000 spent for strike breaking and anti-union activities.

All through his administration, as through Hylan's, the city avoided paying the prevailing rate of wages required by law to carpenters, painters and others on jobs done for the city under contract. It continued the vicious padrone system of hiring help in public schools and the exploitation of firemen in city schools who work 10 and 12 hours a day. It lifted not one finger to help the 25,000 subway and bus employees who work seven days a week on jobs over which the city has at least some indirect control. No provision against such work on the new 8th Avenue subway or on the bus routes was made or even suggested by Tammany or by the labor leaders themselves until Socialists and the City Affairs Committee had made it an issue before the Board of Estimate. Meanwhile "fixers" waxed fat on labor cases in magistrates' courts.

Tammany's record on unemployment is equally "practical." The richest city in the world has made a pitiful showing on unemployment relief. This we say without denying that in a national emergency like ours the federal government with its power of credit and currency and its power to tax incomes and inheritances over the entire country has a responsibility for providing means for unemployment relief greater than the city's. The city is handicapped by limitations on its power to tax. But this should not free the city government of responsibility, espe-

cially in a crisis. The whole policy of the Walker administration toward unemployment relief was that of casual and reluctant generosity under pressure. The poor were supposed to cry loudly and long, and then perhaps City Hall would listen.

The first coherent and practicable program for unemployment relief for the city was presented by Louis Waldman and Norman Thomas in behalf of the Socialist Party and a number of labor unions in March, 1930. It was thrown out by the mayor on the plea that under state law the city could spend no money for "outdoor relief" except for the veterans and the blind. Repeatedly Socialists called attention to the fact that the city did have such power under Section 404 of the laws of 1919. Morris Hillquit supported this position in a notable argument before the Board of Estimate. It was finally upheld by the Attorney General of the State. But Mayor Walker on the basis of an opinion of his corporation counsel—an opinion that no one has ever been able to find in written form—held that no such power existed and finally acted on the basis of special legislation procured from the Legislature. All that the city did for the first year and a half of the great depression was to collect a fund from its employees under pressure and belatedly open a few municipal employment bureaus long after they had been demanded by socialists and civic reformers.

Actual direct appropriations for work relief from the city did not begin until April, 1931, and for home relief until January, 1932, the third winter of the depression.

From then on even the conservative Welfare Council fought earnestly for more adequate appropriations because the situation was getting out of hand. Private charity was wholly inadequate to meet the need. In the fall of 1931, 125,000 families in America's capital of wealth were in need and could get no relief from city or private charity. The mayor's heart bled for the unemployed but they continued to starve. Why there were no more riots we do not understand. A mayor getting $40,000 a year was allowed to use the poverty of the taxpayers as an obstacle to adequate relief. All taxpayers, it appeared, were small home owners! The enormous unearned increment of landlords in good years was wholly forgotten.

To make a long and painful story short, under pressure of bitter events, Communist demonstrations, detailed and practicable socialist demands and pleading from the Welfare Council and other groups, the city did increase its gifts. Somehow the unemployed pulled through, although the hospitals were overtaxed with those whom worry and undernourishment had laid low. But the lesson of the winter of 1932 did not penetrate Tammany skulls. In the worst months of the whole depression up to that time, the spring of 1932, the city home relief stations stopped registering the names of hungry people who came to apply for aid. At that time new families in distress had been registering at the rate of 5,000 a week, the private agencies had stopped taking new cases, and the city had cut its allowance for work relief from $15 to $10 a week.

How does a family live in New York on $10 a week? If that question seems difficult it might be well to relieve the brain by asking: How does a family live in New York on nothing at all? For many thousand families in New York this last year the only answer has been begging and slow starvation. The city's great bankers and Controller Berry put a damper on city aid by their warnings about increasing the budget. The precaution was quite unnecessary since the city could have borrowed millions on good terms if the fervor of Liberty loan campaigns had been reproduced. The plain truth was that New York's upper class never was half so much concerned about starving babies in city tenements in 1932 as it was about starving babies in Belgium in 1917. The notorious Block-Aid plan created a tremendous ballyhoo and a pretense that the situation could be met by private charity. The Socialist Committee on Unemployment authorized Norman Thomas to support the plan in a radio address largely because it believed that some money for the starving was better than no money, but the drive was almost futile, raising only $1,300,000 after a campaign that obscured the real picture of inadequate aid.

Now, as we approach the fourth winter of depression the situation is more desperate than ever. Henry J. Rosner of the City Affairs Committee sums up the crisis by saying that we must have $6,000,000 a month for unemployment relief while the city is appropriating only $3,000,000. The 50,000 families receiving home relief

from the city are trying to live on $1 a day, and the 33,000 families who have work relief must live on $1.50 a day. Outside of the pale there are at least 50,000 families in desperate need who are getting no relief at all.

As Mr. Rosner points out, this situation could be met by a perfectly simple and direct plan. The city could provide the necessary $6,000,000 a month for unemployment relief by selling five-year unemployment bonds to its own sinking fund at a low interest rate, and the cost to the taxpayer would not be more than 2 per cent of the city budget in 1933, and 4 per cent in 1934. New York has the money; it is simply a question whether the unemployed will get it by riots or legislation.

Meanwhile, the record of the last three years has demonstrated how hollow is the claim of Tammany that it is a friend of the poor as a class. It owes its "popularity" among the poor to the fact that it rewards certain chosen leaders of labor who betray their class for personal gain. It distributes food baskets and work tickets from district headquarters in return for votes. It is practical, always practical, never disturbing the balance of power between rich and poor, and so winning support or tacit acceptance from the rich because it teaches the poor to stay in their place. It can always beat the "good government" groups in appealing to the poor because those groups have no economic vision of the way government can be used to give security to workers. In fact for the workers the average "good government" movement with its anxious taxpayers pleading for economy offers no relief from star-

vation. These business-men reformers do not impress the workers as being really interested in their fate. Why change from Tammany with its occasional food baskets to budget commissions of realtors? Why indeed bother about civic reform when the question is: When do I eat?

17

THE CITY MANAGER AND PROPORTIONAL REPRESENTATION

Ask the average good citizen who concerns himself with municipal affairs what he thinks is the most constructive thing to do in the war against Tammany and nine times out of ten he will tell you: "Install the city manager plan." Ask him just what the city manager plan is and what it may mean for New York and the chances are that his reply will be a bit vague, but probably he will tell you, correctly enough, that the city manager plan means that under it the voters elect a council which in turn chooses an efficient executive as administrative boss of the city government, leaving questions of policy for the council to determine. The mayor, if there is a mayor, is only chief among equals on the council, a presiding officer who usually takes over the ceremonial side of the work of a chief magistrate—the luncheons, corner stone layings, reception of more or less distinguished visitors and similar activities which absorbed so many of the Hon. Jimmy Walker's working hours and which he so adorned. Meanwhile the city manager, a trained official, can attend to business, relatively immune from politics and politicians.

Theoretically there is much to be said for the plan. It

makes the business of being a city executive something of a career to which earnest and ambitious youth may look forward without the uncertainty and dread which attend the vicissitudes of modern politics. The city's chief executive officer can attend to business without the distractions of campaigning. Presumably he will have been chosen for an executive capacity which does not always characterize the man who can win the support of the dominant city organization and the approval of a majority of his fellow citizens. Deeds will count more than honeyed words and performance more than wise cracks. This efficiency, those who still care for democracy may argue, is not purchased at the price of democracy. The council, the policy forming body, is democratically elected. Indeed, it may be claimed the city manager plan is a happy solution of the necessary marriage of trained ability in administration to popular choice of the policies under which we are to be governed, without which political democracy is doomed. Nevertheless emotionally a good deal of the enthusiasm for the city manager plan in New York springs less from the desire to make democracy effective than from the desire to obtain that efficient dictator for whom so many sons and daughters of the American Revolution now yearn.

Practically, the city manager plan has to its credit reasonable success in small and medium-sized American cities some 400 of which now enjoy its benefit, conspicuous success in the large city of Cincinnati, no success in Kansas City, and not enough success in Cleveland, the largest

city in which it has been tried, to hold popular favor. On the basis of all this is the city manager plan *the* way out for New York, or even an important part of the way out? If so, under what conditions is it likely to be effective?

There is a danger that Tammany's almost certain opposition to any city manager plan will persuade some earnest souls that what Tammany hates or fears they must love. It by no means follows that, because Tammany would prefer to let well enough alone and would regard the change to a city manager plan as the kind of reform which would damage its prestige, therefore the adoption of the city manager plan would be the beginning of the end of Tammany. Very much to the contrary, any form of the city manager plan under which the council was not elected by proportional representation would in the long run be more easily manipulated by Tammany and its allied organizations than the present mayor and board of estimate form of government. The easiest thing Tammany now does is to keep the Board of Aldermen in the boss' or bosses' vest pocket. Generally the citizens pay no attention to the qualities and records of minor candidates for office. New York has a voting population of three million of whom about one-third stay away from every election and about one-half from minor elections.

To a lover of New York nothing is more discouraging than an off-year municipal election when no mayor or other important city-wide official is to be chosen. In 1931, for instance, not even the Seabury inquiry could shake off the apathy of an off-year election, to which newspapers

and public gave only perfunctory and routine attention. That was the year when in three of the five counties Supreme Court justiceships were coolly bartered between the Democratic politicians and their Republican boy friends without effective protest. Tammany was far less put to it that year and educational discussion of the city's needs was far less heeded than in the mayoralty campaign of 1929 before there was a Seabury inquiry. If in 1931 a mayor had been elected, no doubt Tammany would have won, but not by so wide a margin. Unquestionably a vigorous candidate for mayor, even if defeated, would have carried a few of his supporters into minor offices. As it was, Tammany elected every alderman but one and made a clean sweep of almost all other offices.

The plain truth is that for better or worse the American electorate as a whole is psychologically attuned to the presidential, not the parliamentary form of government. It personalizes issues. *One* man may arouse it; a dozen or a score in different districts cannot. If the triumph of the council and city manager plan in so many cities seems to disprove or weaken this generalization it does not follow that there would be similar success in New York City. The immense size of the city, its local divisions, its well-developed regionalism, its lack of homogenity, make it peculiarly necessary that its form of government and manner of election campaign should make it easy to concentrate the attention of the electorate on a responsible official. This would be far harder to do in New York in the election of a council than of the mayor and board of

estimate. With election of the council by proportional representation the advantages of the plan might make it worth trying. Of this more later. But the election of a council by plurality votes, whether by districts as the aldermen are elected now, or by city-wide vote, would make it easier, not harder, for the political machines, once the first ardor of reform had passed, to perpetuate their power. Responsibility in the eyes of the average voter would be diffused rather than concentrated.

Nor is the case for the city manager plan—any city manager plan—strengthened when one examines what it has accomplished or the particular weaknesses of the present situation in New York.

Here are two cities in the same state: Cincinnati and Cleveland. Both had city manager plans. In Cincinnati the plan has thus far been very successful; in Cleveland its most loyal friends could claim for it only a modest degree of success and in 1931 the city reverted to the mayor and council form of government. Cincinnati is politically speaking far less progressive than Cleveland in national politics, and Cincinnati unlike Cleveland never had a Tom Johnson interlude of intelligent and moderately successful municipal radicalism! On the contrary, it was one of the worst boss-ridden cities in the country. Perhaps the very shame of Cincinnati's plight prompted its municipal awakening! The chief difference, however, between Cincinnati and Cleveland was this: in Cincinnati the city manager plan was the achievement of the so-called charter group or party which did not disband after it had

carried its new charter but continues to this day as an active, well-organized municipal party which has been fortunate in the quality of the men and women it has attracted and peculiarly wise and fortunate in the men its council has chosen as city manager—particularly the present incumbent, C. A. Dykstra.

In Cleveland, on the other hand, the old party machines had no such organized opposition. They did business at the old stand. A city manager declared publicly that he could carry on only by apportioning patronage 60–40 between the Republican and Democratic organizations. Nor were the two city managers in Cleveland's experience any outstanding proof that under this plan one gets abler executives than under popular elections. The home of Tom Johnson, yes, even of Newton D. Baker, has had mayors fully up to the standard of its city managers. Under these circumstances the failure of the city to continue the city manager plan was, if not a triumph for good government, at least not a victory for the powers of darkness. It most certainly was a warning to city manager zealots that a plan without a party to carry it out is a vain thing.

This conclusion is ten times strengthened by an examination of New York's needs. New York City does not suffer primarily because of the incompetence of its high executives. Take the mayors during the 20th century: McClellan, Gaynor, Mitchell, Hylan, Walker. With the exception of Hylan any one of them was able enough to fill the post—quite as able as the average city manager.

Even Walker had the ability if he had cared to use it. All of them in varying degree were subject to political pressure. If they were men of courage they could stand out against such pressure better with an independent mandate than could the manager for a Tammany council.

Let us go a step farther: New York does not suffer primarily from incompetence or even from structural faults in its governmental system. Of the latter there are plenty but they are minor faults. The charter should be simplified, superfluous officers should be eliminated, the counties should be consolidated and so should most of the administrative functions of the borough president's offices. These things should be done with or without a city manager plan. They are not done or have not heretofore been done precisely because the present arrangement gives the politicians more jobs. They get a good brokerage fee for discharging their primary function as brokers between the masses with a vote and the classes with power and privilege. It is from this source that most of our municipal evils spring.

On the whole the structure of the Board of Estimate and the various departments is excellent. There is a good deal of routine competence in New York City's government. With all its faults, its budget is more honest and more illuminating to its citizens than most great corporation reports to stockholders. And by great corporations we do not refer merely to Dahl and the B. M. T., the Bank of United States, or Insull's house-of-cards holding companies!

Where New York goes wrong is in the underlying arrangements: to whom does the government belong, what ends does it serve, what is its *policy?* Its scandals arise out of the attempt to carry over the profit ethics of business into government. Behind every significant abuse uncovered by Judge Seabury, and some not uncovered, is the demand of some organized special privilege for power and profit. Sometimes that special privilege is illegal, an underworld racket, but the most costly rackets are in themselves legalized. Landlords want low taxes and great condemnation awards, privately owned public utilities want franchises that are gold mines, and so it goes. New York could have efficient administration in the ordinary narrow sense of the term without disturbing any of the real sources of exploitation of the toiling producers and consumers.

Since the great problem is to capture the government for the service of these workers with hand and brain the vital question becomes one of policy. Our aim should be to use government as an instrument of economic service and the redistribution of wealth. We should visualize the city hall as the center of municipal socialized ownership of those public utilities that now make some rich at the expense of workers and consumers. That means a direct conflict with the real estate and other property interests who conceive of government as a nuisance, a burden, or an ally in exploitation.

No city manager worth his salt could do a significant piece of work in New York without challenging the pri-

vate utility and real estate interests. If he tried to carry out efficiently and honestly a policy concerning wages and hours of city workers, the right to organize, methods of unemployment relief and taxation, he would find himself blocked completely by both old parties. And if he desired to be what every great executive must be, a shaper of policy, he would probably go farthest with a direct mandate from the electorate.

At a conference on political problems an outstanding American historian remarked that in the small city where he lived there was a fairly satisfactory city manager plan in operation but that when all was said and done its chief use was that the real estate and public utility interests got almost what they wanted more cheaply than when they had to pay illegal graft! New York City can hardly be roused to so inglorious an achievement as that!

The real thing that some cities have which New York needs is not the city manager plan but proportional representation. It might be worth trying the city manager plan if by some psychological quirk or practical turn of politics it was tied up to proportional representation.

Our present single-member district plan of electing aldermen has the practical effect of disfranchising all minorities. If the Democrats by using the office-holders in each district as a machine can win a plurality of ten votes in every district in the city, the Board of Aldermen is 100 per cent Democratic. In the election of 1931 the Democrats polled 65 per cent of the votes and elected 98.5 per cent of the aldermen—64 out of 65. Under

proportional representation this is what would have happened:

Party	*Votes Cast*	*Aldermen elected under P. R.*
Democratic	851,216 (65%+)	42
Republican	339,020 (25.9%+)	17
Socialist	110,254 (8.4%+)	6
Others	8,773 (.7%—)	0
	1,309,263	

As a matter of fact under proportional representation the Socialists and Republicans might well have had a majority because hundreds of thousands who stayed away from the polls would have voted if they had had any hope of electing a candidate. Less than half the eligible voters went to the polls in that election.

When we speak of proportional representation we refer to the Hare system of the single transferable vote. Under this system a voter who is voting for five members of a city council, for example, puts the figure 1 in front of his first choice, the figure 2 in front of his second choice, and so on. If there were 100,000 votes cast and 5 were to be elected, the "quota" for electing any one man would be 20,000. The voters would vote by boroughs instead of small districts, so if the minority parties could concentrate on one man enough to get 20,000 votes for him in the whole borough, he would be elected.

This end is accomplished under proportional representation by the system of transferring votes. When a voter votes for one candidate as his first choice and that candidate is elected without counting his vote, or hopelessly

defeated, then the voter's second choice is counted. Under proportional representation no primaries are held and no party labels are put on the ballot. Candidates are nominated by a petition signed by a certain number of voters. The effect of the voting according to choices is to give each party or group representation on the council in proportion to its vote.

This system of proportional representation is simple for the voter but difficult and complex for purposes of counting. The result of an election in New York would not be known for several days after the vote. Hence the machine politicians attempt to misrepresent the idea as unworkable, whereas it has been successful in thousands of elections throughout the world and it offers no great difficulties to a set of independent experts who could be hired to supervise the count.

Under proportional representation minority parties could nominate their strongest men and put forward their strongest programs. There would be genuine, wholesome and constructive opposition in governmental bodies. Moreover there could be a certain sort of coöperation against Tammany which would not require the impossible and wholly undesirable attempt to bring Socialists and other radicals together with nondescript reformers who do not accept the Socialist platform.

On no other terms is effective action against Tammany possible. Every politician and political writer knows it, but proportional representation cannot be realized for New York without legislation at Albany giving the city

the chance to revise its charter and install this system. For that right all good citizens must fight if they wish to throw off the Tammany yoke.

One thing more besides proportional representation, Cincinnati also possesses which New York needs. That is a permanent party interested in good government. But New York needs—and we suspect that Cincinnati will soon find that she needs—a party not confined to the municipality or to avowedly municipal affairs. As we have repeatedly pointed out, no program for using city government as the real servant of the people can get far without going to the state legislature. Even if the nature of American constitutional systems did not make this true, it would be true that there is no logic or compelling power in a good government appeal to the masses which does not require community control over the private corporations which now exploit them. That means in the long run municipal socialism.

18

THE CITY OF THE FUTURE

In the first chapter of this book we asked the question: Are investigations worth while? We answered the question affirmatively with the tremendous qualification that in our present society no mere investigation of inefficiency or corruption could go to the deep roots of misery in that amazing jumble of splendor and squalor, luxury and poverty, which is New York. The city of the future requires more than house cleaning; it requires a new house.

Now, what of that future? How shall the house be built?

Properly to answer the question, or even to try to answer it, would require another and different book than this. We should have to consider the work of the city planners, the monumental report on regional planning of the committee which the Russell Sage Foundation set up, Lewis Mumford's criticisms of it, Frank Lloyd Wright's drastic prophecies of the end of cities, and a host of other material, German, French and English. Some things in harmony with the scope of this book we shall point out.

The city of the future, if it makes use of the skill now available, can be a city of order, convenience, and beauty such as no amount of individual wealth can buy for its

possessors in our present jungle. Planning for such a city in physical terms is obviously a regional rather than an urban problem. In such planning for New York, we are handicapped by a governmental structure and a state division which long antedated modern New York. A regional plan for New York, involving as it must the three states of New York, New Jersey and Connecticut, and 436 local government authorities, will be no easy matter to carry out. Evidently the whole problem of effective government for such areas will have to be reconsidered with an eye to the changes wrought by the machine age. If we were commissioned by a Socialist government of the United States to establish governmental efficiency in the New York region we would erase the state lines that now surround New York City altogether and create a new unit with half of the overlapping machinery of government abolished.

Until such obvious common sense overcomes present inertia such an instrument as the Port Authority of New York is the best example of regional administrative machinery that may create coöperation between states. We may soon come to an official planning commission set up by agreement between New York, New Jersey and Connecticut and guiding by expert advice the physical development of the New York area. Certainly we cannot satisfactorily trust to chance or to purely selfish interests the solution of the problems of parks, breathing spaces, food and water. The water supply for New York City has already been a matter of controversy not only between the

counties and towns in New York State but also with Pennsylvania.

More difficult even than the physical problems of the city of the future are the economic problems involved. On the whole the Russell Sage Foundation planners evaded the landlord issue. They simply accepted the existing economic order, landlordism and all. How you can accept it and get a city worthy of the love and pride of free citizens we cannot see. There are things that can be done, for instance, about the essential process of land condemnation which we have pointed out, but how can we or our children afford to build even such a modest improvement on New York as the Sage Foundation planners desire, if the right of absentee owners to rental values on land goes virtually unchallenged? Those rental values were created by society and must be reclaimed by society. And how can any city by itself be anything but an ameliorative agency in relieving a poverty that is rooted in an international order of society?

Our communist friends would answer that question by saying that almost all attempts to build a new city are fruitless except through a social revolution. We share the communist's scepticism concerning the adequacy of ordinary civic reform, but does it follow therefore that there is no use in doing anything until we can do everything? Is no minor change for the better in the quality and extent of New York City's service to its people worth the effort? We think that it is. Properly to arouse New York requires the inspiration of a great challenge and a great ideal, but

that ideal cannot be put on ice or otherwise conserved for one great revolutionary moment. A community utterly incapable of moral indignation against the sort of thing that has been set forth in this book will not suddenly disclose a capacity for effective action in some great moment of crisis. Fathers and mothers taught to endure with cynical complacency the kind of housing, the police methods, and the gangs of New York which combine to invite their children into a life of crime are very poor builders of some future coöperative commonwealth.

Of course preparation of even the most tentative program for a future New York brings home to the authors, as it must to the readers, the limitations inherent in a decrepit and dying economic order. It is hopeless to build the city of the future as we would want it within the confines of the lunatic world that a dying capitalism gives us. The city and the social order must be changed together. The program for the city must be part of a larger program of social change. And experience has shown that this municipal socialism is vital in itself and in addition is an excellent education for the larger international task. In Europe and in such American cities as Milwaukee and Reading the workers have found an admirable field for experience and experiment, not to mention their very solid accomplishments in civic reconstruction. With all the limitations on our cities, city government, and especially New York's city government touches daily life, as we have seen, more intimately than any other governmental agency. There is no loss or diversion of energy,

then, in formulating a plan and fighting for municipal socialism as part of the general campaign for a new social order.

What is more important just now for the city of the future than static plans or blue prints of its streets is dynamic power directed on right lines to achieve it. We need first of all the awakening of a vivid consciousness among the apathetic masses that there can be a city which would do more collectively for all the great company of workers of hand and brain than any "boss" can do for them individually. Next, we need a general policy and a program for immediate advance. Finally we need definite organization of a party to carry it out.

A policy for the New York of the future might be stated thus: (1) organize the city governmental machine so far as possible without waste, favoritism, or inefficiency; (2) let the people through their government own and operate the great natural economic monopolies without private profit or special privilege; (3) let the workers of hand and brain share in the control of those monopolies.

In practice such a policy means first the complete reorganization of New York City's government to eliminate every chair-warmer and political favorite, every superfluous bureau and parasitic nephew. Then it means the immense expansion of the government to include the ownership and control of the industries of electric power, gas, subways, telephone, buses, and at least some housing. No man could prophesy the exact limits or the exact sequence of such a program. It would depend largely on the devel-

opment of a national socialist movement. It would develop step by step as the collective activities of the city have already developed—schools, fire departments, museums, traffic police, ferries, road building, hospitals. For many of these changes we have already sketched a program in the preceding chapters. Let us recapitulate a little, fill in some gaps, and comment as we go along.

1. Structural and administrative changes. County lines should be abolished within the city, some county offices eliminated and others consolidated. There should be one district attorney's office with the necessary bureaus and district branches rather than five. Now criminals can dodge around the five counties. This device was one of several to which men involved in the milk scandals some years ago resorted in order to escape full justice.

The administrative work of the borough presidents' offices, notably the building and highway bureaus, should also be consolidated into city departments. This would not automatically cure the inefficiency and graft rampant in them, but it would permit centralized planning and make more difficult the pressure of local politics.

There should be a scientific study of the entire city administration looking to the elimination of purely political jobs and a dollar's worth of work for a dollar's pay. On the face of it in such departments as Health and Hospitals the work of experts is starved while political deputies of no technical or administrative competence draw big salaries.

The city manager plan and our doubts concerning it we

have already discussed. Emphatically there should be proportional representation. To accomplish this and the other structural changes necessary the citizens of New York of all political faiths must unite to get new power from the legislature to rewrite their own charter. The revision of the home rule act is the necessary first step.

2. Election machinery. New Yorkers are entitled to more information on the conduct of their government. During election campaigns, the city radio station should be open impartially at stated times for a constructive statement of the platforms and purposes of the different parties.

The present general dishonesty of elections requires machinery that will automatically print the totals on the voting machines or photograph the backs of them for official records. It might also help the situation to stiffen the law on assistance to voters, and possibly to impose civil service tests on election officials. Only a strongly organized party, not controlled by Tammany, as the Republican machine is controlled, can use the necessary pressure to end election frauds.

3. Police and courts. Here again what is wrong lies too deep for change by law or administrative fiat. We do not believe that power over the police should be taken from the mayor as some have suggested. The police commissioner, however, might well be regarded as a permanent administrative official, to be removed only by the mayor for cause, which cause should include a failure to carry out the program as to police methods adopted by the re-

sponsible city executive. The third degree might be checked to some extent by providing for immediate examination of the prisoner before a designated investigating magistrate, as we have already suggested, and a system of Public Defenders should be established immediately for all poor defendants.

As to the courts, we know of no panacea either by election or appointment of judges. Approval of magistrates or municipal court judicial nominations by bar associations means next to nothing as these associations are among the chief sinners in regard to the low standard of legal ethics and practise. Public ownership of the bail-bond business would help the poorer victims of shyster lawyers and the police.

4. Social services. New York's penal institutions and her almshouse on the ironically misnamed Welfare Island in the East River are a disgrace. They should be removed to a region not so needed for a public park and not so available to the drug trade which seems according to reports of former inmates to flourish in the prisons under high political protection despite the vigilance of Commissioner Patterson, one of the best of the Walker cabinet.

The trouble with other departments like Health, Hospitals and Sanitation, as we have indicated, is not that we do not have in them some expert and loyal servants, but that they and their service are starved while political office holders fatten. In these social services the requirement is efficient administration of one branch of what should be a great coöperative community.

Unemployment relief we have already discussed. The principal initiative in large scale relief, public works, and the five day week belongs to the federal and state government. The city under present conditions should increase its appropriation, keep politics out of the relief picture, and push public works, including a housing program.

5. Public utilities. Subway lines should be unified under public operation. The general plan should include the correlation of city owned and operated bus lines. Operation should be under boards which give the users of the service the majority control, but with representation also for different categories of workers.

In connection with providing power for subways the city should also provide itself and its citizens with electricity at cost to break the strangle hold of the electric and gas monopoly with its outrageous charges, and when experience in public operation had been gained the city could buy out the electric and gas monopolies at a price that included no watered values and pay for them with municipal bonds yielding a low interest.

Milk should be declared a public utility and its distribution should be taken over by a stated municipal corporation working in conjunction with bona fide farmers' cooperatives. Only so can the outrageous spread between farmers and transportation companies and the ultimate consumer be prevented. Few things cost the public more than the control of the milk situation by two great holding companies whose competition rarely reduces prices to

consumers or raises them for farmers, but simply adds to the evils of private monopoly the costs of competing agents and milk wagons.

6. Housing and taxation. Public housing, as we have already argued, is the only answer to slums, tenements and their evil consequences. The best plan in the present emergency would be to set up a public housing department which could borrow from the federal government for large-scale housing operations at the same rate that the government borrows. Limited dividend companies which pay six per cent on invested capital—invested capital under the housing law must be one-third of the total; the other two-thirds can be raised by mortgage—cannot and will not provide homes for the workers who need them most. Housing, moreover, must be related to parks, playgrounds, transportation, and above all taxation policies of the city.

The city's principal tax dependence could be a tax to expropriate the rental value of land—not the improvements on the land. Thus the city in behalf of society would become the landlord. Taxation should be shifted to this basis within a decade. The state may also make allowances to the city from income and inheritance taxes for specific purposes during a transitional period.

7. Education. New York's public schools have a cumbersome, bureaucratic management which is shot through with all kinds of politics, not excluding ecclesiastical politics. Its highest executives are usually mediocrities, and Chamber of Commerce ideals predominate. In spite of

some devoted teachers, the system grinds out robots and Babbitts. Again the spirit and ideals of the system are more important than structural and administrative changes in achieving the city of the future. The thing that is the matter with our schools is the blight of Tammany control and no perfection of educational machinery can overcome that blight.

We can imagine some gentle reader who has just scanned this program looking up in surprise and asking: "But how about graft? You have just written a book in which you have piled instance upon instance of inefficiency and corruption in New York's government, and now you propose to give to that corrupt government more and more power over our lives." Yes and no. We propose to give more power to city government but not to a Tammany government. What is much more important, *we propose to take away from speculative business the private profit which now causes corruption in city politics.*

Look back over this book and you will see what we have repeatedly emphasized, that the money which buys politicians comes from private profiteers who have bus franchises to buy, transit stock to manipulate, and well-located land to sell. If the city owned the franchises, the transit stock, and the land, the pool of profits that now buys the politician would be taken away. The socialist answer to graft is not to clap the grafter into jail, although a socialist government would punish grafters ruthlessly, but to remove the spoils from private exploitation.

If there were no Equitable bus franchise to give out it would pay nobody to supply a very generous letter of credit to a city official. If there were no unearned profits to be made out of an advance tip on land there would not be the immense graft connected with condemnation proceedings. Graft in connection with the Dock Department arises not primarily from building the docks but from renting them. New York's marvelous publicly owned and operated water system has been far freer from scandal than has been the relation of the city to privately owned gas and electric supply.

This is not to argue that municipal or any other kind of socialism will automatically end all graft. There is no political machinery which gluttons, fools and cowards can drive with perfect safety. But socialism by the new point of view which it inculcates and its steady destruction of opportunities to make immense unearned private profits strikes a mortal blow at the racketeering spirit which corrupts both government and business to-day.

All of which makes it doubly clear that what New York needs is a program for regeneration that is part of a national program. Few of the major reforms we have suggested could be accomplished against the opposition of reactionary state and federal governments. It should be even more obvious that the things that matter most to the workers cannot be attained by mere good government. No good government program in our memory has ever gone to fundamentals or promised exploited workers anything to shake them loose from their dependence of

fear and favor on the district leader. The Mitchell fusion government had certain administrative virtues which it failed to capitalize in the minds of the voters. It had no program at all to break the grip of public utilities or milk companies or to conquer slums. Is it any wonder that masses of workers were indifferent to it and would not have continued it even if its end had not been complicated by the passions of the World War?

The city of the future, if it is to be a city of beauty and well being, will be part of a coöperative commonwealth in which all our great productive powers are dedicated to the needs of men rather than to the profits of absentee owners. And to dream that there will be cities or urban areas in which man's collective power will combine with nature to give him comfort and beauty is not Utopian. The collective control of our cities is increasing year by year. Our schools and libraries, our improved public health service, such coöperative houses as those that the Amalgamated Clothing Workers have built, the marvelous park system of Westchester, the state park board on Long Island, especially at Jones Beach, and the work of the Port Authority of New York—these things are not Utopian. They are joyous realities. Other great cities can show other successful experiments in coöperative economic government. When we have made it generally possible to expand this work all along the line in every city in America then the social revolution will be assured. To make that possible is the inescapable debt we owe to our children.

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APPENDIX I

A CALENDAR OF SCANDALS DURING THE WALKER ADMINISTRATION

(We acknowledge with gratitude the fact that this calendar is based in fact and partially in language upon that invaluable guide to current events, *The New York Times Index.* We have, however, condensed many items from the index for purposes of brevity, and in a number of places we have frankly interpreted facts in our own language, so *The Times* should not be held responsible for opinions. Where several events in sequence are grouped together under one date, the date chosen is that of the earliest event.)

1925

October 21: Walker praises Tammany's records in dramatic speech at rally at Tammany Hall; vows clean city.

November 15: Walker in radio speech at Miami says Southern women and children may visit New York with safety in his administration.

December 9: Walker says Olvany will settle patronage disputes throughout city.

1926

January 2: Walker urges reorganization of city government and simplification in inaugural speech.

January 6: Judge O. A. Rosalsky says crooks will have no chance under Walker government.

January 6: Patrolman Brennan kills S. Kranin in station house while intoxicated.

January 9: 112 arrested on gambling charges; formation of squad by Police Inspector Lahey indicates means of checking up action by district inspectors.

January 11: Magistrate Vitale frees 30 arrested in raid on Oriona Social Club on ground of illegal arrest; Magistrate Glatzmyer frees 41 of 44 taken in pool-room raids.

January 13: Democrats in Board of Aldermen defeat efforts to put Mrs. Pratt, only Republican, on important committees.

January 13: President McKee introduces custom of having Board of Aldermen business session opened with prayer.

January 13: Walker pledges rule for people's interests, with no politics.

January 25: Courts free over 200 taken in raids on Trilby Inn, Amex Dist. Dem. Club and Elmore Social Club, Inc., for lack of evidence.

January 29: Leonard Wallstein, counsel for Citizens Union, asks New York State Supreme Court to block former Commissioner Enright's pension on charge that former Mayor Hylan granted it in violation of home rule act. Pension finally stopped.

January 31: McLaughlin scores handling of welfare and contingent fund, organized by Enright for emergency aid to policemen; investigation shows that badges for honorary officials, European trips of officers to study conditions, expenses of sessions of international police conference, salary of E. E. Hart as publicity man, fees of A. Honiger for teaching "Eye Language," T. R. Gaines for teaching breathing and other expenses came from fund.

February 6: Walker opposes, as against principle, proposal to transfer some authority of New York City Standards and Appeals Board to State Public Service Commission.

February 25: Police Commissioner Warren says city has lost $500,000 already in street cleaning graft and figure may reach $2,000,000.

March 2: Automobile Graft—Twenty summonses issued in investigation of Attorney J. I. Cuff of forgery and bribery in Brooklyn Traffic Court, involving two members of motorcycle squad and many motorists; rubber stamps with facsimile signatures of judges used and motorists paid from $10 to $30 to have cases dropped.

March 6: Citizens Committee appears before Board of Education to ask restriction of size of high schools to 2,000 pupils each; Pres. G. J. Ryan says it would be too expensive.

March 16: Mayor Walker describes bad condition of Bellevue psychopathic ward to Committee of Whole of Board of Estimate; says money for new buildings should be spent on it; will make personal survey of city hospital conditions. (The Bellevue psychopathic pavilion was not voted until three years later.)

April 3: Patrolmen J. Feit, P. Murray and J. Alutto placed on trial in graft and bribery case connected with snow removal. Convicted of conspiracy and sentenced to three months in workhouse.

April 14: Walker rises early to ride horse, Cedar King, in Central Park.

April 27: Supreme Court Justice Proskauer, in Citizens Union suit against granting ex-Mayor Hylan's pension, holds pension void, rules home rule amendment grants city no power in matter of pensions. Sustained by Court of Appeals.

May 19: Brutality—New York County Lawyers Assn. complains to Commissioner McLaughlin and District Attorney Banton of third degree methods; McLaughlin reported to have replied, approving "strong arm" methods in such cases.

May 20: Gambling and vice—Police raid Tammy Central

Club, Democratic organization of 12th Assembly District, for second time in three days; 35 arrested but freed in night court.

May 22: Application of American Civil Liberties Union for use of Stuyvesant High School for free speech meeting denied by Board of Education. Denial approved by patriotic societies and State Chamber of Commerce.

June 10: Walker tells newspaper men he favors putting buses on streets of city as soon as possible.

June 12: Controller Berry writes letter to Mayor Walker charging him with habitual tardiness at the Board of Estimate meetings. This was six months after he had taken office.

June 14: Walker names 472 persons to city planning and survey committee.

June 22: Harris suspends three inspectors of the Food and Truck Bureau as result of investigation into adulteration of butter.

August 7: Mayor Walker appoints Judge C. H. Kelby to head centralized investigation of milk graft covering five boroughs.

August 31: Harry C. Perry Democratic Club, Tammany organization of Second Assembly District, raided.

September 6: Reports that Tammany is annoyed by raids on district clubs by Commissioner McLaughlin, Governor Smith's appointee, with resultant resentment to Smith.

September 18: Controller Berry's report on passenger cars used by divisions of city government, exclusive of policy, fire and street cleaning vehicles, puts expense in 1926 at over $3,000,000; calls it factor in budget increase.

October 27: Freedom of thought—Teachers Union cites records of J. W. Hughan, R. G. Hardy and A. Lefkowitz in charge of discrimination in promotion, due to personal views on public questions. Superintendent O'Shea says public opinion backs refusal to promote three radical teachers.

October 27: W. G. Krane urges high school teachers' association of New York City to "enroll as Democrats but vote as you please."

December 7: Controller Berry refuses to authorize payment of $3,500 for scrolls, badges and other items in connection with welcomes to crown prince and princess of Sweden and of crew of *President Roosevelt;* scores "bad English" of scrolls.

December 8: W. Bernard Vause, Brooklyn judge, urges grand jury to show no Christmas leniency toward criminals.

1927

January 6: Women's night court of Brooklyn condemned as unfit by New York State Prisons Commission.

February 11: Schieffelin says that Governor Smith evades duty in milk graft prosecution in deference to G. W. Olvany's wish.

February 20: Ex-Mayor Hylan bets E. F. Foley that Walker will not pose for picture at Palm Beach; loses.

March 31: Commissioner Harris declares millions of dollars' worth of bootleg cream was smuggled into city during season of scarcity.

May 24: Walker in speech at Institutional Synagogue, New York City, says he is "pro-Jewish Gentile."

July 1: Dr. William H. Walker threatened with loss of post on medical board of New York City Board of education for failing to take required civil service tests.

July 21: Conviction of T. J. Clougher on graft charge upheld in court of appeals.

July 29: Bus franchise awarded to Equitable Coach Co.; Service Transportation Corp. and Tompkins Bus Corp. also get franchises; Walker signed contract August 9 and sailed for Europe August 10 with $10,000 letter of credit arranged by J. Allen Smith of Equitable.

August 10: Kelby in report to Mayor Walker shows evidence of graft in food inspection division of Health Department prior to present administration in 148 criminal cases sent to district attorneys in four counties.

August 17: Mrs. R. B. Pratt demands ousting of C. L. Kohler, budget director and former secretary of Health Department, as result of graft exposé; Citizens Union assails his record, calls Kelby inquiry a fiasco. Kohler still in.

December 16: Harvey submits charges concerning Queens sewers to Governor; Governor Smith appoints Scudder head of inquiry. Max Steuer defends Connolly. Shearn later succeeds Scudder.

1928

May 6: W. J. Lougheed voluntarily offers affidavits charging huge graft in connection with alleged padding of payrolls of temporary employees.

May 15: Investigator for Commissioner of Accounts Higgins uncovers thefts in Manhattan and Brooklyn; Lougheed and three others plead not guilty. Lougheed later pleads guilty.

May 29: Assistant District Attorney Ryan charges $2,600 of $3,390 weekly went to "dummies" on street cleaning payroll.

June 9: Oswald found guilty of grand larceny in street cleaning case; McGee acquitted.

June 16: Taylor dismisses three in snow graft case.

July 4: J. M. Phillips, alleged head of Queens ring, dies while under indictment for graft.

July 11: A. Courtney, W. McClutchy, B. Barone, A. Casenza and E. Dunnegan convicted of payroll padding in street cleaning scandal.

July 17: State Socialist Party asks Governor Smith to investigate administration; makes 11 charges. Smith declines to grant inquiry.

July 22: Commissioner of Health Harris resigns as result of lack of coöperation from mayor in cleaning up health evils.

September 3: W. L. D'Olier, president of Sanitary Corporation, regarded as important witness in forthcoming prosecutions, found dead of shot; police uncertain of suicide.

September 28: Grand jury returns murder verdict in D'Olier inquiry.

October 18: Connolly and Seely found guilty; former sentenced.

October 19: Connolly at Welfare Island.

November 6: Arnold Rothstein murdered.

December 14: Warren resigns as police commissioner. Grover Whalen appointed.

1929

February 1: W. Schroeder assumes office as commissioner of hospitals, and appoints Cadley and Fay as deputies.

February 4: Women's City Club report scores lateness in opening magistrates' courts.

February 12: City Trust Co. doors closed.

March 14: Annual police parade revived by Commissioner Whalen.

March 16: G. W. Olvany resigns as Tammany leader. Governor Roosevelt praises Olvany's service.

March 28: F. Brieger resigns from Harvey cabinet; charges borough president caters to politicians.

March 29: Whole official legislative program of New York City slaughtered.

March 29: L. G. Godley of Transit Commission rejects Equitable plan on funds and company will lose franchise.

April 24: Curry elected Tammany leader; defeats E. J. Ahearn, in whose favor McCue resigns; old Tammany idea victorious; Mayor Walker becomes dominating force; influence of Smith and Foley regarded as destroyed.

May 12: Mrs. M. Sullivan, leader of raid on Birth Control Clinical Research Bureau, demoted by Whalen.

September 28: La Guardia declares Magistrate A. H. Vitale received loan from Rothstein. Thomas scores Vitale.

October 4: Walker pays surprise visit to Tammany Hall; reaffirms fealty; promises to follow leadership of J. F. Curry.

October 10: General Sessions Judge Mancuso resigns from bench in City Trust Co. case.

October 11: Supreme Court Justice T. C. T. Crain, Democratic nominee for district attorney, says powers of office will not lie dormant if he wins.

October 12: Mancuso, Frederico Ferrari, A. Di Paola, I. Siegeltuch, L. Rose, S. Soraci and F. S. Paterno indicted on charges of violating penal law relating to misconduct of directors of moneyed corporations.

October 16: Alfred E. Smith appeals for reëlection of Walker on his record.

October 18: Amadeo A. Bertini appointed to fill Judge Mancuso's place until January 1; later refused to waive immunity before grand jury. Died March 2, 1931.

October 19: Central Trades and Labor Council endorses T. M. Farley, Democrat, for sheriff.

October 26: Thomas makes public report on school construction, prepared by Coöperative and Constructive School Survey in 1924; says Walker has ignored findings.

October 30: J. P. Ryan, president, Central Trades and Labor Council, says labor is for Walker; only "red" group backs La Guardia.

November 2: More than 100 indicted on charge of registration frauds.

November 6: Walker elected by 497,165 plurality; hails vote as vindication.

November 6: Jury finds Frank H. Warder, former state

bank superintendent, guilty of accepting $10,000 bribe while Superintendent of Banks in City Trust case; sentenced to 5 to 10 years in Sing Sing.

December 6: Judge Nott directs jury to acquit McManus of the murder of Arnold Rothstein.

December 17: Resolution fixes mayor's salary at $40,000, controller's at $35,000 and president of Board of Aldermen at $25,000, offered by Harvey. Harvey denies seeking Democratic favor by measure.

1930

February 16: Bar Association asks removal of Vitale.

March 7: One hundred injured in riot of Communists in Union Square. Thomas, Civil Liberties Union, and others protest police brutality. Thomas presents petition for Whalen's removal March 17th.

March 13: Vitale continues testimony, admitting he made $165,000 in 4 years while on bench and that he had $125,000 when he got loan from Rothstein.

March 14: Vitale removed by Appellate Division on account of Rothstein loan.

April 22: Governor Roosevelt vetoes bill to transfer custody of registration books from election inspectors to police.

May 7: W. Vause indicted on charge of using mails to defraud. Also indicted for perjury by Federal grand jury on testimony relating to fees for pier leases. Guilty on 13 counts, sentenced to 6 years in Atlanta.

May 12: U. S. Attorney Tuttle subpoenas income tax returns of Doyle and investigates bank accounts; extensive investigation planned.

May 14: Discovered that Dock Commissioner Cosgrove has filed no report since 1926, though annual accounting is required.

May 21: Whalen resigns as Police Commissioner. E. P. Mulrooney appointed.

May 22: Citizens Union opposes appointment of J. F. Geraghty as commissioner of licenses; cites criticism of department during his previous administration. N. Thomas charges him with leniency toward private employment agencies.

June 10: Judge W. B. Vause resigns from bench.

June 11: Civil Service Reform Association charges violation of law in paying salaries to Dr. W. H. Walker, R. E. Walsh and 8 clerks in Brooklyn Municipal Court.

June 21: Roosevelt rejects Socialist Party's plea for investigation.

June 27: Chairman Walsh of Board of Standards and Appeals indicted by New York County grand jury on charge of accepting gratuity while holding public office, and by Federal grand jury for failure to file income tax return for 1929. Resigns as chairman. Acquitted.

August 5: Witness testifies to Federal grand jury that George F. Ewald paid $12,000 to be a magistrate.

August 17: Association of Bar of City of New York asks Governor Roosevelt to investigate charges of corruption in appointments of magistrates; S. S. Wise and Norman Thomas also appeal.

August 21: Doyle cleared of perjury charge, jury disagrees on tax evasion.

August 23: Budget calls for 10 additional sergeants-at-arms for Board of Aldermen; positions pay $2,280 a year and require services of employees only 1 day a week.

August 24: Roosevelt drops idea of city-wide inquiry.

August 26: Appellate Division votes to investigate magistrate's court in Manhattan and Bronx; Thomas calls investigation ludicrously inadequate.

September 18: Ewald and Healy refuse to waive immunity;

grand jury examines their bank accounts; Ewald, wife and Healy indicted.

September 24: Seabury and Kresel get wide powers to investigate courts.

September 25: J. F. Curry and C. H. Kohler and other Tammany leaders refuse to waive immunity; Mrs. Healy refuses to be sworn.

September 29: Governor Roosevelt in letter to Mayor Walker asks that Tammany men testify; mayor promises to demand that aides answer questions.

October 4: Seven Tammany leaders to waive immunity partially; Special Prosecutor H. C. Todd objects to limitation to official acts only and rejects offer because office-buying is excluded.

October 5: Roosevelt acquiesces in Tammany leaders' decision and C. H. Tuttle charges Roosevelt with attempting to bury investigation by limiting immunity waivers to official acts.

October *6:* Tammany lawyers back J. F. Curry's stand on refusing to sign immunity waiver.

October 7: Roosevelt, in letter, refuses to authorize wide investigation of courts.

October 8: Roosevelt refuses to make public files relating to appointment of Bertini.

October 13: City Affairs Committee reports enormous wastes in condemnation of school sites.

October 18: Board of Estimate votes $40,000 for inquiry into past and present condemnation proceedings, to be conducted by Leonard Wallstein.

October 28: Roosevelt says allegations of wholesale corruption are made for partisan purposes.

November 4: H. Riegelman charges that 35,000 have registered fraudulently in New York County.

November 25: Appellate Division opens public hearings

on magistrates court; J. C. Weston, former process server, exposes vice ring of bribery, graft and corruption in Women's Court.

November 26: At Appellate Division hearings girl tells how she was "framed" in Women's Court vice ring; witnesses tell of Magistrate Silbermann's alleged favoritism on bench; bail bond "racketeering" revealed.

December 4: Acuna identifies 13 policemen as "framers" in vice cases; girl victims testify at Appellate Division hearing; cost of "ring" to taxpayers estimated at $50,000 to $100,000 annually.

December 10: Magistrate McQuade resigns as Seabury moves to investigate his conduct on bench.

December 12: Bank of United States closes.

1931

January 7: Magistrate Goodman resigns under fire; pleads illness.

January 17: Magistrate Simpson resigns as he faces inquiry.

January 23: Ewald case ends in dismissals.

January 31: Magistrate Brodsky cleared of any wrongdoing.

February 8: Forty witnesses in vice frame-ups vanish.

February 11: Isidor Kresel resigns as special counsel in Appellate Division inquiry because of indictment (later acquitted) as director of Bank of United States.

February 25: Levey tells of speakeasy graft collected by Quinlivan and O'Connor; got $40 a day as collector.

February 26: Walker's administration defended by Harvey.

February 27: Roosevelt signs bill providing contingent fund for investigation.

February 28: Appellate Division of Second Department

opposes extension of court inquiry to Brooklyn, Queens and Richmond.

February 28: Jean Norris got $1,000 for testimonial ad; admits to Seabury it was unethical; admits convicting women on unsupported word of policemen.

March 8: Governor Roosevelt, in reply to charges by City Club, says he will order investigation of District Attorney's office; appoints Seabury to head investigation.

March 18: City Affairs Committee files formal charges against Mayor Walker.

March 24: Roosevelt sends copy of charges to Walker with request for reply.

March 24: Legislature puts through resolution providing for general inquiry into New York City affairs with Seabury as counsel of legislative committee.

March 26: Tammany warns Roosevelt that it will consider it an unfriendly act if he refers charges against Walker to legislative investigating committee. (Roosevelt did not.)

April 12: Borough President Harvey orders public hearing on charges of City Affairs Committee against Klein, Queens superintendent of highways.

April 17: Mayor's Committee recommends abolition of Board of Standards and Appeals and substitution of 2 units. (Nothing was ever done about it.)

April 20: City Affairs Committee asks Roosevelt for opportunity to file rebuttal.

April 21: Walker files answer to City Affairs Committee's charges.

April 22: Holmes and Wise characterize Walker's reply as reckless and superficial; ask governor to preside at trial of mayor, or appoint commissioner.

April 22: District Attorney Crain says he was satisfied with his own investigation of courts.

April 26: F. Brieger files charges against Harvey in third plea for action by governor.

April 29: Roosevelt dismisses City Affairs Committee charges against Walker; rejects rebuttal plea.

April 29: Board of Estimate votes to grant franchise to Brooklyn Bus Corp. for 20 lines, 17 Brooklyn and 3 Queens, and Mayor Walker signs franchise.

May 2: Slot machine profit $20,000,000 inquiry shows; witnesses describe organized system.

May 16: Supreme Court Justice MacCrate accuses Queens Borough officials of assisting New York Air Terminal, Inc., to close part of Old Bowery Road, public highway, for development of air field.

May 17: Testimony suit in New York Air Terminal, Inc., reveals that L. Halleran, brother of J. J. Halleran, received $10,000 fee for airport deal; Commissioner Halleran explains deal.

May 26: Irving Klein and F. H. Shepheard indicted on bribery charges; Klein dismissed from post as superintendent of Queens Highway Bureau. Both acquitted but Klein later convicted on separate indictment.

May 28: M. Mager, Queens politician, indicted on charge of having conspired with Klein; not convicted.

June 9: Attorney General Bennett orders investigation of stock selling methods of New York Airport, Inc. Borough President Harvey and Commissioner J. J. Halleran are directors.

June 9: As result of fight against tentative awards in Rockaway Beach condemnation case, city saves $4,459,643; L. M. Wallstein receives $160,000 fee for service.

June 16: Assistant Attorney General P. J. McCauley alleges gross misstatements in stock selling of New York City Airport, Inc.; Harvey resigns from board of directors but later withdraws resignation.

June 18: Prosecutor shows letter from Harvey, accepting place on board of New York City Airport, Inc., was used as basis for advertising promoting stock sales.

June 23: L. B. Halleran admits no board action on sale to New York City Airport, Inc., for $80,000 of land costing $22,000; J. J. Halleran concedes advantage was taken of Harvey.

June 26: Magistrate Jean Norris found guilty on 5 charges; removed from office as unfit.

July 3: Halleran admits he does not agree with some of promotion methods of New York City Airport, Inc.; secretary of state issues dissolution certificate for corporation. State ends inquiry.

July 3: Magistrate Silbermann removed from bench by unanimous vote, for giving political favors.

July 11: Board of Estimate hearing on Queens bus franchises; dissension between Controller C. W. Berry and Mayor Walker over forms of grants to North Shore Bus Corp. and Jamaica Buses, Inc.; Walker attacks N. Thomas and refuses to allow P. Blanshard to ask questions.

July 20: City Affairs Committee asks Mayor Walker to exclude Doyle and McCooey and Conroy from further practice before Board of Standards and Appeals.

July 24: Justice Sherman of Appellate Division grants stay to Doyle; Seabury says stay was obtained by trickery and deceit.

July 26: Seabury traces telephone call from J. F. Curry apartment to Lake Placid, N. Y., where Justice Sherman granted stay to Doyle.

July 28: Doyle jailed as appeal is denied on contempt charge.

August 5: Roosevelt dismisses charges against Harvey with severe censure.

August 15: Doyle denies having bribed officials.

August 15: Blanshard, of City Affairs Committee, sues to annul Brooklyn Bus Corp. franchise, and asks writ to bar service.

August 18: N. Thomas asks bar Association to investigate action of Justice Sherman in granting stay to Doyle.

August 26: Governor Roosevelt, in message, presents proposed bill to give Hofstadter Committee immunity power, and proposed revision of penal code; immunity bills passed August 28.

August 31: City Affairs Committee attacks Fifth Avenue Coach Co. and says 4 Chicago men "milk" revenues through system of holding companies.

September 1: Seabury, in report on District Attorney Crain, recommends dismissal of charges, but criticizes conduct of office; Governor Roosevelt follows recommendation.

September 26: Investigation reveals that out of 514 persons arrested in gambling raids of 1926 and 1927 only 5 were held for Special Sessions.

October 5: G. W. Olvany, refusing to testify on fees in cases before city departments, pleads confidential relation between lawyers and client.

October 15: Supreme Court refuses to dismiss Blanshard's suit on Brooklyn buses.

October 16: Central Trades and Labor Council endorses almost all Democratic candidates.

October 17: Sherwood in Mexico on honeymoon.

October 29: Mayor, in campaign speech, transforms revelations into vindications of administration.

November 2: Sherwood arrives at San Antonio; disappears.

November 5: Promoters agree to stock-sale injunction of New York City Airport, Inc.

November 5: N. Thomas charges vote theft in 2nd, 4th and 17th Assembly Districts; sending complaint to Board of Elections.

November 10: Olvany's income reported to have totaled

more than $2,000,000 during 4½ years of Tammany Hall leadership.

November 13: Tammany club leaders testify falsely dated relief cards were distributed during registration week.

November 16: City Affairs Committee charges Borough President Levy with having used unemployment relief fund to get votes.

December 2: Chairman of 23d district election board removed as result of N. Thomas' charges; others censored.

December 18: J. T. Quinn admits that as Sheriff he received $32,000 from late J. M. Phillips, sewer contractor; Deputy City Clerk J. J. McCormick attributes larger part of his income to tips from bridegrooms.

1932

January 13: Sale of fugitive Russell Sherwood's assets brings $310 after court seizes his property as punishment for evading Seabury.

January 22: Mayor Walker acclaimed at Tammany victory dinner says investigations seek only self-glorification.

January 25: Seabury makes Intermediate Report.

February 25: Sheriff Farley removed by Roosevelt after hearing.

February 27: Seabury in speech indirectly attacks Roosevelt for delay and deference to Tammany.

March 1: Roosevelt appoints District Leader John Sheehy to succeed Farley as Sheriff with approval of John F. Curry.

March 3: H. C. Perry, chief clerk of City Court, tried by City Court judges for falsification of bank accounts and acquitted.

March 6: City Affairs Committee files charge against W. L. Kavanagh of Department of Water Supply for unexplained bank accounts. Charges later dismissed by his superior, John Dietz, after whitewash.

March 10: Former Sheriff Farley acquitted by jury of taking interest on funds in his care.

March 17: William J. Flynn of Bronx revealed as making huge profit by building garage on area he had made restricted.

March 18: City Affairs Committee asks removal action against John Theofel, boss of Queens.

March 27: City Affairs Committee asks Roosevelt to remove Sheriff J. A. McQuade of Kings County.

March 31: Roosevelt in letter to Holmes and Wise refuses to remove McQuade and attacks City Affairs Committee officers.

April 1: R. C. Bastress and J. I. Cohalan convicted of accepting bribe and get four-month terms.

April 2: City Affairs Committee through Holmes and Wise reply to Governor Roosevelt.

April 13: J. J. (marriage license) McCormick indicted for evading taxes. Never convicted.

April 15: Seabury shows that laxity in Bureau of Weights and Measures reported to Mayor Walker and Commissioner Higgins was punished only by scolding.

April 27: C. B. Rose testifies that Senator Hastings demanded contribution to Mayor Walker's campaign in 1925 as step toward obtaining Equitable franchise. Hastings to get third of Equitable's stock without investing anything.

May 5: Surrogate Hetherington dismisses City Affairs Committee charges against John Theofel.

May 5: Controller Berry charges that Commissioner Delaney fixed reports on bus franchises to suit Mayor Walker, and mayor forced Board of Estimate to approve Equitable franchise.

May 7: Queens bus franchises defeated in uproarious meeting of Board of Estimate; Walker calls N. Thomas and P. Blanshard enemies of the public.

May 12: Evidence about bonuses of Gerhard M. Dahl by B. M. T. ruled out of order by Hofstadter.

May 13: J. A. Sisto admits giving $26,000 in bonds to Walker.

May 23: City Affairs Committee asks Sheriff John Sheehy why he does not remove Deputies Curran and Flaherty because of unexplained bank accounts.

May 26-27: Walker testifies before Seabury and entire testimony is published in press.

May 27 to June 4: Governor Roosevelt is silent about Walker testimony.

June 1: Seabury reveals that Russell Sherwood drew large sums from secret account before Mayor Walker sailed for Europe.

June 2: Dr. W. H. Walker revealed as splitting fees with physicians handling workmen's compensation cases.

June 9: Seabury sends charges against Mayor Walker to Governor Roosevelt.

June 18: Irving Klein convicted of falsifying records in Rosati road oil case.

June 20: Samuel Levy, Tammany henchman and borough president of Manhattan, elected president of National Jewish Orthodox Congregations of United States and Canada.

June 23: Roosevelt orders Walker to answer removal charges.

July 29: Walker replies to Seabury charges.

August 4: Governor Roosevelt orders Mayor Walker to answer Seabury charges at public hearings in Albany.

August 12: Walker hearings begin.

August 29: Supreme Court Justice E. J. Staley rules that Roosevelt has power to try and remove Walker, but severely attacks governor for method of conducting hearings.

September 1: Mayor Walker resigns.

APPENDIX II

THE SEABURY CHARGES AGAINST MAYOR WALKER

1. That he has failed properly to execute the duties which, as Mayor of the City of New York, it was incumbent upon him to discharge; that he has so acted in his official capacity as to prejudice the best interests of the people of the City of New York; that, in the course of his official conduct, he has been actuated by improper and illegal considerations; that he has while holding the office of Mayor, been guilty of gross improprieties; and that his explanations of circumstances seriously reflecting upon the manner in which, as its chief executive, he has conducted the affairs of the City of New York, have been either so incomplete or so unworthy of credence as not to constitute acceptable explanations.

2. That the Mayor accepted ten $1,000 Reliance Bronze & Steel Corporation bonds, ten $1,000 Parmelee Transportation Company bonds, and thirteen $1,000 Hygrade Food Products Corporation bonds, said thirty-three bonds being of the aggregate value of approximately $26,000, from J. A. Sisto, who then had a large financial interest in bringing about a limitation of the number of taxicabs operating in New York City and who was desirous of inducing the Mayor to bring about such a limitation of the number of said taxicabs; that thereafter the Mayor actively sponsored and caused to be enacted legislation, the passage of which

was, to his knowledge, desired by the said J. A. Sisto and by certain corporations, in the securities of which the said J. A. Sisto and Samuel Ungerleider & Company were substantially interested.

3. That at a time when Samuel Ungerleider & Company, in association with the aforesaid J. A. Sisto, was substantially interested in the future of Parmalee securities, the value of which would be increased by a limitation of the number of taxicabs operating in New York City, Samuel Ungerleider & Company paid Russell T. Sherwood, the Mayor's financial agent, $22,000 more than the then market worth of shares of stock which Ungerleider & Company purported to buy from Sherwood; that thereafter the Mayor actively sponsored and caused to be enacted legislation, the passage of which was, to his knowledge, desired by the said J. A. Sisto and by certain corporations, in the securities of which the said J. A. Sisto and Samuel Ungerleider & Company were substantially interested.

4. That the Mayor, in violation of the provisions of Section 1533 of the Greater New York Charter, was the owner of ten $1,000 debenture bonds of Reliance Bronze & Steel Corporation, convertible into stock of the corporation at the election of the holder thereof, with which corporation the City of New York, on or about February 3, 1931, entered into a contract for the purchase of 104 traffic light standards, at a purchase price of approximately $43,000.

5. That, to the great detriment of the City of New York and its inhabitants, the Mayor, in violation of his duty, advocated and used the influence of his office to procure an award of a bus franchise for the Boroughs of Manhattan, Brooklyn and Queens to Equitable Coach Company, Inc., a corporation which he knew was not fit or qualified to receive it.

6. That the Mayor advocated and used the influence of

his office to procure said award of said bus franchise to the Equitable Coach Company, Inc., in furtherance of a plan to benefit a group of persons of whom his friend and associate, Senator John A. Hastings, was one.

7. That the Mayor improperly made possible and facilitated the purchase of 300 shares of Interstate Trust Company stock, which stock was received by or on behalf of J. Allan Smith, Frank R. Fageol and John A. Hastings, promoters of the Equitable Coach Company, Inc., and May Arter Smith, wife of J. Allan Smith, prior to the date when that company was granted a bus franchise by the City of New York, but while its application therefor was pending, and that 200 shares of this stock were used to secure a loan of $23,000, which sum was deposited in the account of J. Allan Smith, Trustee, the account which was used to defray the expenses of procuring said franchise.

8. That on or about the day prior to the signing of the Equitable franchise, the Mayor was provided with a Letter of Credit, in the amount of $10,000, which was paid for in cash by J. Allan Smith, one of the promoters, and the agent of all of the promoters, of the Equitable Coach Company, Inc., and that subsequently, and after the exhaustion of the said Letter of Credit, but while the Equitable Coach Company was and continued unable to comply with the requirement of its franchise that it commence operations thereunder, and during the period when the Equitable Coach Company was, from time to time, applying for and receiving from the Board of Estimate and Apportionment extensions of the time within which to commence such operations, the said J. Allan Smith paid a draft in the amount of $3,000, plus interest, for the payment of which the Mayor was liable.

9. That the Mayor permitted himself to be placed in a position inconsistent with the position which he, as a public

officer, should at all times have maintained, by accepting substantial gratuities, which he calls "beneficences," from persons who might seek benefits from the municipal authorities. In the case of Paul Block, such "beneficences" were accepted from a person who subsequently became interested in a corporation which sought, and procured, approval from the Board of Transportation of a tile which said Company intended to manufacture for use in the subway.

10. That during the period of five years next succeeding his entering the office, Mayor Walker, for the purpose of concealing his interest therein, caused his financial transactions to be conducted through, and in the name of, Russell T. Sherwood; that this agent, during said period, deposited in bank and brokerage accounts close to a million dollars, of which upwards of $700,000 was in cash, and that the Mayor has failed and refused satisfactorily to explain the sources of the moneys belonging to him and deposited by Sherwood in said accounts.

11. That as soon as it became known that the Joint Legislative Committee desired to examine the said Russell T. Sherwood with respect to his financial transactions on behalf of the Mayor, the said Sherwood disappeared, and the Mayor has failed and neglected either to cause his agent to return, or to coöperate with the Committee in its efforts to locate him, thereby preventing the disclosure of facts essential to a complete investigation of the conduct of his office by the Mayor.

12. That on May 23, 1932, a subpoena *duces tecum* of the Joint Legislative Committee was served upon Mayor Walker, calling for the production, on May 25, 1932, of all records of his personal financial transactions from January 1, 1926, to date. When the Mayor appeared on May 25, 1932, for examination at public hearing, he brought

with him, in response to this subpoena, the following papers:

Cancelled vouchers of his account with the Chatham & Phoenix Bank & Trust Company for one month in 1930 and 3½ months in 1931;

Stub check books for the same account for one month in 1930 and eleven months in 1931 and for 1932.

When questioned as to his failure to produce check books or cancelled vouchers for the years 1926, 1927, 1928 and 1929, he stated that if any records were in existence they were in the law office with which he was connected before he assumed the office of Mayor, but that he had not personally made inquiry as to whether or not those records were in existence.

He was examined in public a second time on the day following, but produced no further documents or papers in response to the subpoena.

On June 2, 1932, ten days after the service of said subpoena upon him, and seven days after the conclusion of his examination, he produced, in further compliance with the subpoena, cancelled vouchers of his Chatham & Phoenix Bank & Trust Company account for the period January 5, 1927, to June 21, 1927. At this time he also produced check stub books on the same account for the period beginning June 21, 1927, and ending with November, 1930.

That the Mayor has not produced a single record showing his financial transactions during the year 1926 nor for the first five and a half months of 1927.

That he has not produced the cancelled vouchers of his Chatham & Phoenix checking account for the period from January 1, 1926, to January, 1927; for the six months, June 21, 1927, to December 30, 1927; for any part of the year 1928; for any part of the year 1929; for the first eleven

months of the year 1930; for the eight and a half months from April 16 to December 31, 1931, nor for any part of the year 1932, of which nearly five months had elapsed at the time when the subpoena was served.

13. That Mayor Walker, in his testimony before the Joint Legislative Committee, was neither frank nor truthful, and that his purpose in being evasive and untruthful was to hinder and obstruct the Joint Legislative Committee in the prosecution of the investigation which the Legislature directed it to make, and to prevent an effective investigation of his activities as Mayor of the City of New York, and a complete disclosure of his conduct in such office.

14. That the Mayor neglected his official duty in permitting his Corporation Counsel to designate, in City compensation cases, doctors who split their fees with the Mayor's brother.

15. That in the matters above referred to, and generally since he assumed office, the Mayor's conduct has been characterized by such malfeasance and nonfeasance in disregard of the duties of his office as Mayor, and he has conducted himself, to the prejudice of the City of New York and its inhabitants, in a manner so far unbecoming the high office which he holds, as to render him unfit to continue in the office of Mayor.

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